The Concept of the Political

Carl Schmitt

Translation by C.J. Miller

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BY

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The publisher can be contacted at
Antelopehillpublishing.com

The translator can be contacted at
cjmiller@hotmail.ca

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"... Aristotle saith, and many others say, and say true, and say in unison, that friendship and war are the roots of charity and chaos"

—*Otto Brunner,* Land und Herrschaft

This reprint of Concept of the Political contains the unabridged, complete text of the 1932 edition. In the 1932 epilogue, the strictly didactic character of the work is emphasized and it is expressly stressed that everything that is said here on the concept of the political is only intended to "create the theoretical framework of an immense problem." In other words, it is intended to provide a framework for certain jurisprudential questions to bring order to a confused subject and to establish a topology of its concepts. This is a work that cannot begin with timeless essential definitions, but rather begins with criteria in order not to lose sight of the subject matter and the situation. The main focus is on the relationship and dichotomies of the terms state and political on the one hand, and war and enemy on the other, in order to recognize their informational content for this conceptual field.

Argument

The relational field of the political is perpetually changing, depending on the forces and powers that join or separate in order to assert themselves. From the ancient Polis, Aristotle acquired other determinations of the political like a medieval scholastic who adopted Aristotelian formulations literally, and yet had something quite different in mind, namely the opposition of clerical-ecclesiastical and secular-political, that is, a tension between two concrete orders. When the ecclesiastical unity of Western Europe broke down in the 16th century and political unity was destroyed by sectarian civil wars, in France the very lawyers who stood up for the state as the higher, neutral unit in the fratricidal war of the religious parties were called *politiques*. Jean Bodin, the father of the European state and international law, was one such typical politician of the time.

Until recently, the European part of humanity lived in an epoch whose legal concepts were entirely shaped by the state and presupposed the

state as a model of political unity. The epoch of statehood is now coming to an end. There is not a word to be said about this anymore. It marks the end of the entire superstructure of state-related concepts that a Eurocentric science of state and international law has built up over four hundred years of thought. The state as the model of political unity, the state as the bearer of the most astonishing of all monopolies, namely the monopoly of political decision, this gem of European form and occidental rationalism, is dethroned. But its concepts are retained, and even upheld as classical concepts. Admittedly, the word classical today usually sounds ambiguous and ambivalent, not to mention ironic.

There really was a time when it made sense to identify the concepts of the state and the political. For the classic European state had succeeded in something quite improbable: achieving peace within its own borders and to excluding enmity as a legal concept. It had succeeded in eliminating the feud, an institute of medieval law, in putting an end to the sectarian wars of the 16th and 17th centuries, which were fought on both sides as particularly just wars, and in establishing peace, security, and order within its territory. The formula "peace, security, and order" famously served as the definition of the police. Within such a state, there was effectively only the police and no longer politics, unless court intrigues, rivalries, *frondes*, and attempts at rebellion by malcontents—in short, "disturbances"—were called politics. Such a use of the word politics is of course also possible, and to argue its correctness or incorrectness would be a semantic dispute. But it should be noted that both words, politics and police, are derived from the same Greek word *polis*. Politics in the grand sense, high politics, was then only foreign policy, which a sovereign state as such carried out towards other sovereign states which it recognized as such, deciding on mutual friendship, enmity, or neutrality.

What is classical about such a model of a political unit that is closed to the inside, pacified, and closed to the outside as a sovereign in relation to sovereigns? What is classical is the possibility of unambiguous, clear distinctions. Inside and outside, war and peace, during wars military or civil, neutrality or non-neutrality; all these are recognizably separated and are not intentionally blurred. In war, too, everyone on both sides has a clear status. Even the enemy is recognized

as a sovereign state on an equal level under international law in a war between states. Under this international law, recognition as a state already contains, as long as it still has content, recognition of the right to war, and thus recognition as a just enemy. The enemy also has a status; he is not a criminal. War can be limited and contained by international law. Consequently, it could also be ended with a peace treaty, which normally contained an amnesty clause. Only in this way is it possible to distinguish clearly between war and peace, and only in this way is it possible to achieve clean, unambiguous neutrality.

The containment and clear limitation of war contains a relativization of enmity. Every such relativization is a great progress in the humanitarian sense. Admittedly it is not easy to bring it about, for it is difficult for men not to regard their enemy as a criminal. Yet the European international law of land warfare between states has succeeded in taking this rare step. It remains to be seen how it will be achieved by other peoples whose history has only known colonial and civil wars. In no way is it humanitarian progress to outlaw the contained war of European international law as reactionary and criminal, and instead, in the name of justice, to unleash revolutionary class or racial enmities which can no longer distinguish between enemy and criminal, and which no longer want to do so.

State and sovereignty are the basis of the limitations on war and enmity that have been achieved so far under international law. In truth, a war conducted correctly according to the rules of European international law contains more of a sense of right and reciprocity, but also more legal procedure, more “lawfare” as has been said, than a show trial staged by modern rulers for the moral and physical destruction of the political enemy. Whoever tears down the classical distinctions and the containments of state war based on them must know what he is doing. Professional revolutionaries like Lenin and Mao Zedong knew it. Some professional jurists did not know. They do not even notice how the traditional classical concepts of contained war are used as weapons of revolutionary war, which are used purely instrumentally, without obligation, and without any commitment to reciprocity.

This is the situation. Such a confused intermediate situation of form and lack of form, war and peace, raises questions that are uncomfortable

and unavoidable, and contain a real challenge within themselves. The German word *Herausforderung,* translated as Argument, expresses here both the meaning of a challenge and that of a provocation.

Attempt at a Response

Writing about the concept of the political is an attempt to do justice to the new questions and to underestimate neither the challenge nor the provocation. While the lecture on Hugo Preuss (1930) and the treatises "The Guardian of the Constitution" (1931) and "Legality and Legitimacy" (1932) examine the new domestic, constitutional problems, state theory now meets issues of interstate relations under international law; there is talk not only of the pluralistic theory of state—still completely unknown in Germany at the time—but also of the League of Nations. This work responds to the argument of an intermediate situation. The argument, which emanates from itself, is directed primarily at constitutional experts and jurists in international law.

Thus the first sentence reads: "The concept of the state presupposes the concept of the political." Who should understand such an abstractly formulated thesis? Even today, it is still doubtful to me whether it made sense to begin an exposition with this at first glance opaque abstraction, because often the first sentence alone decides the fate of a publication. Nevertheless, the almost esoteric conceptual statement is not out of place at this particular point. Through its provocative theses, it expresses to the addressees to which it is primarily addressed, namely to connoisseurs of the *jus publicum Europaeum*, those familiar with its history and its current problems. With reference to such addressees, the epilogue gains its meaning in the first place, because it emphasizes both the intention of "creating the theoretical framework for an immense problem" and the strictly didactic character of the presentation.

A report on the effects of writing within this discipline by its actual beneficiaries would have to include later publications that continue the approach of this concept of the political and seek to fill out its framework. These include the paper on "The Turn to the Discriminating Concept of War" (1938) and the book on "The Nomos of the Earth" (1950). Such a report would also have to include the development of

views on political crime and political asylum and on the justiciability of political acts and judicial decisions on political issues, and it would even have to include the basic question of the judicial process as a whole, i.e., an investigation of the extent to which the judicial process already changes by itself, as a process, its substance and object, and transfers it into another aggregate state. All this is far beyond the scope of a preface and can only be hinted at as a task. The question of the political—not only economic or technical—unity of the world would also pertain to the discussion. Nevertheless, out of the multitude of statements I would like to mention here two essays on international law which deal critically and negatively with my ideas and yet keep a factual eye on the subject: the two statements published by Professor Hans Wehberg of Geneva, in his journal "*Friedenswarte*" in 1941 and 1951.

Because, like all jurisprudential discussions of concrete concepts, this text on the concept of the political deals with historical material, it is also addressed to historians, primarily to those who are familiar with the period of European statehood and the transition from the medieval feudal system to the sovereign territorial state and its distinction between state and society. In this context the name of a great historian must be mentioned, Otto Brunner, who in his groundbreaking work *Land und Herrschaft* (1st ed. 1939) provided an important historical verification of my criterion of the political. He also gives consideration to this little text, even if he registers it as only one "endpoint," namely the endpoint of developing a doctrine of the reason of state. At the same time, he raises the critical objection that it presents the enemy and not the friend as the actual positive conceptual feature.

The designation "endpoint" indicates that the writing is of the imperialist age and classifies its author as a Max Weber epigon. How my concepts relate to those of a typical imperialist doctrine of state and international law can be seen clearly enough from note 9 p. 33, which concerns a typical product of this era. The accusation of an alleged primacy of the concept of the enemy is widespread and stereotypical. It fails to recognize that, out of dialectical necessity, every movement of a legal concept results from negation. In legal life as in legal theory, the inclusion of negation is anything but a "primacy' of the negated. A trial as a legal act becomes conceivable only when a right is negated.

Punishment and criminal law begin not with a deed, but with a misdeed. Is this perhaps a "positive" conception of the misdeed and a "primacy" of the crime?

Independently of this, the historian for whom history is not only the past will also be aware of the concretely present challenge of our discussion of the political, namely the complicated interplay of classical and revolutionary legal concepts, and will not misunderstand the meaning of our response to this challenge. The development of war and enemy nascent in 1939 has led to new, more intense types of war and to completely confused concepts of peace, to modern partisan and revolutionary war. How can all this be grasped theoretically if the reality that there is enmity between people is suppressed from the scientific consciousness? We cannot deepen the discussion of such questions here; it should only be remembered that the challenge to which we are seeking an answer has not disappeared in the meantime, but has unexpectedly increased its power and urgency. Moreover, the second corollary of 1938 gives an overview of the relationship between the terms war and enemy.

Not only lawyers and historians, but also important theologians and philosophers have dealt with the concept of the political. This would likewise require a special critical report to give a halfway complete picture. In this area, however, new and extraordinary difficulties of mutual understanding emerge, such that a convincing framing of the common problem becomes almost impossible. The phrase *Silete theologi!* ("silence theologian," from the full phrase "Silence, theologian, where you do not belong!"), with which a jurist of international law hailed the theologians of both denominations at the beginning of the state epoch, still has an effect. The division of our teaching and research in the humanities has confused the common language, and especially with terms like friend and enemy an *itio in partes* becomes almost inevitable.

The proud self-confidence that spoke from that *Silete!* at the beginning of the state epoch has been lost to a large extent to the jurists of its end. Today many seek support and value in a moral-theological natural law or even in value-philosophical postulations. The legal positivism of the 19th century no longer suffices, and the revolutionary

abuse of the concepts of classical legality is obvious. The jurist of public law sees himself—as opposed to theology or philosophy on the one hand, and social-technical adjustment on the other—in a defensive intermediate position, in which the autochthonous unassailability of his position is no longer valid and the informational content of his definitions is threatened. Such a confused situation would in itself justify the reprinting of a text on the concept of the political, which has been inaccessible for many years, so that an authentic document can be saved from false myths and a genuine statement of its original informational purpose can be returned.

The legitimate interest in the authentic wording of a statement applies even more to non-scientific areas, to daily journalism and mass media. In these areas everything is adapted to the immediate goals of daily political struggle or consumption. Here, an effort towards scientific framing becomes simply absurd. In this milieu, a cautious, initial delimitation of a conceptual field has been turned into a primitive slogan, a so-called friend-enemy theory, known only by hearsay, and blamed on the other party. Here, the author can do no more than keep the complete text safe, if possible. Moreover, he must know that the effects and implications of his publications are no longer in his hands. Smaller writings, in particular, go their own way, and what their author has actually done with them, "only time will tell."

Further Development of the Response

The initial situation persists and none of its challenges has been overcome. The contradiction between the official use of classical terms and the effective reality of world revolutionary goals and methods has only intensified. The reflection on such a challenge must not stop and the attempt at an answer must continue.

How can this happen? The time of systems is over. When the era of European statehood began its great rise, three hundred years ago, wonderful systems of thought were created. Today one can no longer build like that. Today only a historical retrospective is possible, which reflects the great time of the *jus publicum Europaeum* and its concepts of state and war and just enemy in the consciousness of their

systematics. I have attempted this in my book on the nomos of the earth (1950).

The other, opposite possibility would be a dive into aphorism. This is impossible for me as a jurist. In the dilemma between system and aphorism there is only one way out: to keep an eye on the phenomenon and to test the always new questions of new, tumultuous situations on their criteria. In this way, one insight grows after the other and a series of corollaries is created. There are already many of them, but it would not be practical to burden the reprint of a 1932 publication with them. Only a very special category of such corollaries, which provide an overview of the relations of a conceptual field, comes into consideration here. They outline a conceptual field in which the terms inform each other by their position in the conceptual field. Such an overview can be particularly useful for the didactic purpose of the writing.

The reprinted text of 1932 had to be submitted as a document with all its flaws unchanged. The main flaw in the matter is that the different types of enemy—conventional, real, or absolute enemy—are not separated and distinguished clearly and precisely enough. I owe thanks to a Frenchman, Julien Freund of the University of Strasbourg, and an American, George Schwab of Columbia University, New York, for pointing out this flaw. The discussion of the problem continues irresistibly and is making real progress in consciousness. For the new, contemporary forms and methods of war force a reflection on the phenomenon of enmity. In an independent treatise on the "Theory of the Partisan," which appeared at the same time as this reprint, I have shown this by means of a particularly topical and acute example. A second, equally striking example is the so-called Cold War.

In the partisan warfare of today, as it has developed through the Chinese-Japanese War since 1932, then in the Second World War, and finally after 1945 in Indochina and other countries, two opposite processes, two very different types of war and enmity, are combined: first, an autochthonous, essentially defensive resistance, with which the population of a country opposes the foreign invasion, and then the support and control of such a resistance by interested third powers with their own aggressive intentions. The partisan, who for classical warfare was a mere "irregular," a mere marginal figure, has now become, if not

a central, then at least a key figure in world revolutionary warfare. One only remembers the classical maxim with which the Prussian-German armies hoped to defeat the partisan: the troops fight the enemy; the police deal with marauders. Also in the other modern type of war, the so-called Cold War, all the conceptual axes which have so far supported the traditional system of limitation and maintenance of war are broken. The Cold War makes a mockery of all the classical distinctions between war and peace and neutrality, between politics and economics, military and civilian, combatants and non-combatants—except for the distinction between friend and enemy, the consistency of which is its origin and essence.

No wonder the old English word "foe" has awakened from its four hundred year old archaic slumber and has been in use again alongside "enemy" for two decades. In an age that produces nuclear weapons of mass destruction, and at the same time blurs the distinction between war and peace, how would it be possible to stop a reflection on the distinction between friend and enemy? The big problem is the limitation of war, and this is either a cynical game, the organization of a dog fight, or an empty self-deception, unless it is connected on both sides with a relativization of the enmity.

The foreword to the reprinting of a small text cannot be intended to deal exhaustively with such problems and to supplement the obvious incompleteness of a text from thirty years ago; nor can it replace a book to be rewritten. Such a foreword must be content with a few hints at the causes which explain the continuing interest in the text and suggest its reprinting.

Carl Schmitt, March 1963

THE CONCEPT OF THE POLITICAL

I

The concept of the state presupposes the concept of the political. The state, according to current usage, is the political status of a people organized in territorial unity. This is only a preliminary paraphrase, not a definition of the state. Nor is such a definition necessary here, where the essence of the political is concerned. We can leave open what the state is in its essence—a machine or an organism, a person or an institution, a society or a community, a factory or a beehive, or perhaps even a "basic series of procedures." All these definitions and images anticipate too much in terms of interpretation, meaning, illustration, and construction, and therefore cannot provide a suitable starting point for a simple and elementary exposition. The state is, according to its literal sense and its historical appearance, a specific kind of status of a people, namely the status that is authoritative in the decisive case. Therefore, in comparison to the many conceivable individual and collective statuses, it is the absolute status. There is nothing more to say about it for the time being. All characteristics of this idea—status and people—receive their meaning through the further characteristic of the political and become incomprehensible when the essence of the political is misunderstood.

One will rarely find a clear definition of the political. Mostly the word is used only negatively as a contrast to various other concepts, in antitheses such as politics and economics, politics and morals, politics and law, within the law then again politics and civil law,[1] etc. Through such negative, often polemical juxtapositions, something sufficiently clear can be designated, depending on the context and the concrete situation, but this is not yet a determination of the specific. In general, "political" is in some way equated with "state," or at least related to the state.[2] The state then appears as something political, the political as something related to the state—obviously an unsatisfactory logical circle.

In legal literature, there are many such descriptions of the political, which, insofar as they are not politically polemical, can only be understood from the practical-technical interest of the legal or administrative decision of individual cases. They then acquire their meaning by unproblematically presupposing an existing state within whose framework they operate. Thus, for example, there is judicature and literature on the concept of "political association" or "political assembly" in the law of associations;[3] furthermore, the practice of French administrative law has attempted to establish a concept of political motive (*mobile politique*), with the help of which "political" government acts (*actes de gouvernement*) are to be distinguished from "non-political" administrative acts and removed from administrative court control.[4]

Provisions of this kind, which meet the needs of legal practice, basically seek only a practical means of delimiting the various facts that occur within a state in its legal practice; they are not intended to provide a general definition of the political. Therefore, they can get by with their reference to the state, as long as the state and state institutions can be taken for granted as something self-evident and fixed. Even the general definitions of the political, which contain nothing but a further reference back to the "state," are understandable and in this respect also scientifically justified, as long as the state is truly a clear, unambiguously determined entity and is opposed to non-state, and therefore "apolitical" groups and affairs, as long as the state has a monopoly on the political. This was the case where the state either (as in the 18th century) did not recognize "society" as an adversary or at least (as in Germany during the 19th century and into the 20th century) stood above "society" as a stable and distinct power.

On the other hand, the equation state = political becomes incorrect and misleading to the same extent to which state and society permeate each other; all affairs hitherto of the state become social, and conversely all affairs hitherto "only" social become state affairs, as is necessarily the case in a democratically organized polity. Then the hitherto "neutral" areas—religion, culture, education, economy—cease to be "neutral" in the sense of non-state and non-political. As a polemical

counter-concept to such neutralizations and depoliticizations of important subject areas emerges the total state, the identification of state with society, which is not disinterested in any subject area and potentially encompasses every area. Consequently, everything in it is potentially political, and in referring to the state, it is no longer possible to establish a specific distinguishing feature of the political.

The development can be traced from the absolute state of the 18th century via the neutral (non-interventionist) state of the 19th century to the total state of the 20th century.[5] Democracy must abolish all the distinctions and depoliticizations typical of the liberal 19th century and, along with the distinction between state and society (that is, political vs. social), also eliminate the juxtapositions and divisions corresponding to the situation in the 19th century, namely the following:

- religious (denominational) as opposed to political
- cultural as opposed to political
- economic as opposed to political
- legal as opposed to political
- scientific as opposed to political

—and numerous other polemical (and therefore political) antitheses. The deeper thinkers of the 19th century recognized this early. In Jacob Burckhardt's *Reflections on History* (from around 1870), the following words are found about "democracy, so-called, a doctrine nourished by a thousand springs, and varying greatly with the social status of its adherents. Only in one respect was it consistent, namely, in the insatiability of its demand for State control of the individual. Thus it effaces the boundaries between State and Society, and looks to the State for the things that Society will most likely refuse to do, while maintaining a permanent condition of argument and change and ultimately vindicating the right to work and subsistence for certain castes." Burckhardt also noted well the internal contradiction between democracy and the liberal constitutional state: "The State is thus, on the one hand, the realization and expression of the cultural ideas of every party; on the other, merely the visible vestures of civic life and only *ad hoc* almighty. It should be able to do everything, yet allowed to do

nothing. In particular, it must not defend its existing form in any crisis —and after all, what men want more than anything else is to retrieve their share of its exercise of power. Thus the form of the state is increasingly questionable and its radius of power increasingly great."[6]

At first, German political theory still held (in the aftermath of Hegel's system of philosophy of state) that the state was qualitatively distinct from society and something higher. A state that stood above society could be called *universal*, but not *total* in today's sense, namely the polemical negation of the neutral state (in relation to culture and economy), of which especially the economy and its law were considered *eo ipso* apolitical. But the qualitative distinction between state and society, which Lorenz von Stein and Rudolf Gneist still held to, loses its former clarity after 1848. The development of German political theory, the basic lines of which are presented in my treatise on Preuß (Tübingen 1930), ultimately follows, with certain restrictions, reservations, and compromises, the historical development towards a democratic identity of state and society.

An interesting national-liberal intermediate stage of this path becomes apparent in A. Haenel; he calls it[7] "a downright mistake to generalize the concept of the state to the concept of human society in general;" he sees in the state a social organization of a special kind, one that is accessory to other social organizations, but "rising above them and uniting them," whose common purpose is "universal," but only in the special task of delimiting and arranging socially effective forces of will, that is, the specific function of the law; the ability of the state to act as a force for the will of its citizens. Haenel also expressly describes as incorrect the opinion that the State, at least as far as possible, has all the social goals of mankind as its own goals; the State is for him, therefore, indeed universal, but by no means total. The decisive step lies in Gierke's theory of association (the first volume of his *German Law of Associations* appeared in 1868), because it conceives of the state as an association of the same nature as the other associations. Of course, in addition to the cooperative elements, sovereign elements were also supposed to pertain to the state and were sometimes emphasized more, sometimes less. But since it was a theory of association and not a theory

of state sovereignty, the democratic consequences were undeniable. In Germany, they were drawn by Hugo Preuss and K. Wolzendorff, while in England they led to pluralistic theories (see below). Rudolf Smend's teaching on the integration of the state seems to me, subject to further instruction, to correspond to a political situation in which society is no longer integrated with an existing state (as the German bourgeoisie was integrated into the monarchical state of the 19th century), but rather society itself is to be integrated into the state. That this situation requires the total state is most clearly expressed in Smend's comment[8] on a sentence from H. Trescher's dissertation on Montesquieu and Hegel (1918), where Hegel's theory of the separation of powers is said to mean "the most vigorous penetration of all societal spheres by the state for the general purpose of winning for the entirety of the state all vital energies of the people." Smend remarks that this is "precisely the concept of integration" in his book on the constitution. In reality, it is the total state, which no longer knows anything absolutely non-political, which must redress the depoliticizations of the nineteenth century and, in particular, put an end to the axiom of the state-free (apolitical) economy and the economy-free state.

II

A definition of the political can only be obtained by discovering and identifying the specifically political categories, for the political has its own criteria, which have a particular effect on the various relatively independent fields of human thought and action, especially the moral, aesthetic, and economic. The political must therefore rest on its own ultimate distinctions, to which all behavior with a specifically political purpose can be traced. Let us suppose that in the field of morality the ultimate distinctions are good and evil; in the aesthetic, beautiful and ugly; in the economic, useful and harmful, or, for example, profitable and nonprofitable. The question, then, is whether there is also a special distinction as a simple criterion of the political, which is not similar and analogous to these other distinctions, but rather independent of them, autonomous, and as such easily understandable, and what it consists of.

The specific political distinction to which political actions and motives can be traced is the distinction between friend and enemy. It gives a definition in the sense of a criterion, not an exhaustive definition or summary. Insofar as it is not derived from other criteria, the friend-enemy distinction corresponds to the relatively independent criteria of other distinctions: good and evil in the moral, beautiful and ugly in the aesthetic, etc. In any case it is independent, not in the sense of a new subject area of its own, but in the sense that it cannot be based on any of these other distinctions, nor can it be traced back to them. If the distinction between good and evil is not simply identical with that of beautiful and ugly, or useful and harmful, and may not be directly reduced to it, the distinction between friend and enemy can still less be confused or mixed up with those other distinctions. The distinction between friend and enemy denotes the extreme intensity of a connection or separation, an association or dissociation; it can exist theoretically and practically, without all those moral, aesthetic, economic or other distinctions having to be applied at the same time. The political enemy need not be morally evil; he need not be aesthetically ugly; he need not be an economic competitor—it may even seem advantageous to do business with him. He is just the *other*, the stranger, and it is sufficient

to his nature that he is existentially different and foreign in a particularly intense way, so that in extreme cases conflicts with him are possible. These can neither be decided by a previously determined general norm, nor by the decree of a "disinterested" and therefore "impartial" third party.

The possibility of correct knowledge and understanding, and thus also the power to speak and judge, is only given here through existential participation. Only the participants in an extreme case of conflict can identify it; that is, each of them can only decide for themselves whether the otherness of the stranger in the concrete case of conflict means the negation of their own form of existence, and whether he must therefore be repulsed or fought off in order to preserve their own way of life in accordance with their being. In psychological reality, the enemy is easily treated as evil and ugly, because every distinction and grouping—especially the political, as it is the strongest and most intense—draws on all other usable distinctions for support. This does not change the independence of such distinctions. Consequently, the reverse is also true: that which is morally evil, aesthetically ugly, or economically harmful need not be the enemy; that which is morally good, aesthetically beautiful, and economically useful is not necessarily the friend in the specific, i.e. political, sense of the word. Thus the objectivity and independence of the political is evident in this possibility of separating such the friend-enemy distinction from other distinctions and of conceiving it as something independent.

III

The terms friend and enemy are to be taken in their concrete, existential sense, not as metaphors or symbols, not mixed and weakened by economic, moral, and other ideas, least of all in a private-individualistic sense as a psychological expression of private feelings and tendencies. They are neither normative nor "purely intellectual" antitheses. In a dilemma of intellect and economics typical of liberalism (to be discussed in more detail in chapter VIII), liberalism has tried to dissolve the enemy from a business standpoint into a competitor, from the intellectual standpoint into a debate opponent. In the field of economics there are, however, no enemies, only competitors, and in a completely moral and ethical world perhaps only debate opponents. Yet whether one considers it reprehensible or not, and perhaps finds an atavistic remnant of barbaric times in the fact that peoples still really group themselves according to friend and enemy, or hopes that some day the distinction will disappear from the earth, and whether it is perhaps good and right to pretend for educational purposes that there are no more enemies at all—none of this enters into the question here. Here it is not a question of fictions and norms, but of ontological reality and the real possibility of this distinction. One may or may not share those hopes and educational aspirations; that peoples group themselves according to the distinction of friend and enemy, that this distinction is still real today, and is a real possibility for every politically existing people, cannot reasonably be denied.

Thus the enemy is not a competitor or opponent in the general sense. He is also not a private opponent whom one hates with a feeling of antipathy. The enemy exists only when, at least potentially, one fighting collective of people confronts another fighting collective. The enemy is always a public enemy, because everything that relates to such a collective of people, especially to a whole people, thereby becomes public. The enemy is *hostis*, not *inimicus* in the broader sense; *πολέμιος*, not *ἐχθρός*.[9] As the German language, like many other languages, does not distinguish between the private and the political "enemy," many misunderstandings and falsifications are possible. The oft-quoted

passage "Love thy enemy," (Matthew 5:44, Luke 6:27) reads "*diligite inimicos vestros*," *ἀγαπᾶτε τοὺς ἐχθρούς,* and not "*diligite hostes vestros*"; there is no mention of the political enemy. Nor, in the thousand year struggle between Christianity and Islam, has it ever occurred to any Christian that out of love for the Saracens or the Turks, instead of defending Europe, we should hand it over to Islam. One need not hate the enemy in the political sense personally, and only in the private sphere does it make sense to love one's "enemy," i.e., one's opponent. That biblical passage has even less to do with political enmity than it does with abolishing, for instance, the distinction of good and evil, or beautiful and ugly. Above all it does not say that one should love the enemies of his people and support them against his own people.

Political antagonism is the most intense and extreme antagonism, and any concrete antagonism becomes more political the closer it gets to the extreme point, the friend-enemy grouping. Within the state as an organized political unit, which as a whole makes the friend-enemy decision for itself, and in addition to the primarily political decisions and in the protection of the decision made, there are numerous secondary concepts of the political. First, with the help of the equation of politics and state, discussed under Chapter I above. This has the effect that, for example, a "state-political" attitude is opposed to a party-political one, so that one can speak of religious policy, school policy, local policy, social policy, etc. of the state itself. But here too there always remains an opposition and antagonism within the state which are relevant to the concept of the political,[10] though they are relativized by the existence of the political unity of the state embracing all internal distinctions. Finally, even further weakened types of "politics" develop, distorted to the point of parasitism and caricature, in which only some antagonistic aspect remains from the original friend-enemy grouping, which manifests itself in all sorts of tactics and practices, competitions and intrigues, and calls the most peculiar deals and manipulations "politics." Yet the fact that the essence of political relations is contained in the reference to a concrete antagonism is still expressed in the common parlance, even where the consciousness of the "emergency" has been completely lost.

This becomes apparent in two phenomena that can be easily identified. First, all political concepts, ideas, and words have a polemical meaning; they have a concrete opposition in mind, are bound to a concrete situation, the ultimate consequence of which is a friend-enemy grouping (manifested in war or revolution), and they become empty and phantom abstractions when this situation disappears. Words such as state, republic[11], society, class, as well as sovereignty, constitutional state, absolutism, dictatorship, plan, neutral or total state, etc., are incomprehensible if one does not know who *in concreto* is to be affected, combated, negated, and refuted by such a word.[12] It is above all a polemical character that dominates the use of the word "political" itself, whether one makes the opponent out to be "apolitical" (in the sense of unworldly, lacking concreteness), or, conversely, whether one wants to disqualify and denounce the opponent as "political" in order to elevate oneself as "apolitical" (in the sense of purely objective, purely scientific, purely moral, purely legal, purely aesthetic, purely economic, or on the basis of similar polemical purity). Second, in the expression of domestic everyday polemics, "political" is often used today as synonymous with party politics; the inevitable "non-objectivity" of all political decisions, which is only the reflex of the friend-enemy distinction inherent in all political behavior, expresses itself in the petty forms and horizons of party-political appointments and donor politics. The resulting demand for "depoliticization" means only overcoming party politics, etc. The equation "political = party politics" is possible when the idea of a comprehensive political unit (the state) that encompasses all domestic political parties and their antagonisms loses strength and, as a result, domestic antagonisms become more intense than the unified foreign policy in opposition to another state. When the party antagonisms within a state become the sole political distinctions, that is when the most extreme degree of domestic political tension is reached, i.e. domestic friend-enemy groupings, and not those of foreign policy, determine the groupings in an armed conflict. Thus in the case of such a "primacy of domestic politics," the real possibility of conflict, which must always be present in order to speak of politics, no longer

refers to war between organized units of peoples (states or empires), but to civil war.

The real and ever-present possibility of conflict always pertains to the concept of the enemy. All coincidental historical development in terms of changes in war and weapons technology must be disregarded with respect to this concept. War is armed conflict between organized political entities; civil war is armed conflict within an organized entity (whose status as an organized entity, however, becomes problematic as a result). The essence of the concept of the weapon is that it is a means of physically killing human beings. Just like the word enemy, the word conflict is to be understood here in terms of its original essence. It does not mean competition, not the purely intellectual "combat" of debate, not the symbolic "struggle" in which every man is always engaged in some way since, after all, the entirety of human life is struggle and every man is a fighter. The terms friend, enemy, and conflict receive and retain their real meaning by the fact that they refer specifically to the real possibility of physical killing. War follows from enmity, for it means the existential negation of another being. War is only the most extreme realization of enmity. It need not be anything ordinary, anything normal, nor to be seen as ideal or desirable, but it must remain present as a real possibility as long as the concept of the enemy retains its meaning.

Thus it is by no means as if political existence were nothing but bloody war, and every political deed a military action, as if every people was continually faced with the friend-enemy alternative in relation to every other people, and as if the politically expedient thing could not be precisely to avoid war. The definition of the political given here is neither belligerent nor militarist, neither imperialist nor pacifist. Nor is it an attempt to present the victorious war or the successful revolution as a "social ideal," for war and revolution are neither social nor ideal.[13]

Military combat itself is not, as such, the "continuation of politics by other means," as the famous words by Clausewitz are often misquoted,[14] but war has its own strategic, tactical, and other rules and considerations, all of which presuppose that the political decision as to who the enemy is has already been made. In war, the opponents usually

face each other openly as such, usually even marked by a "uniform," and the distinction between friend and enemy is therefore no longer a political problem that the fighting soldier has to solve. This is the basis for the correctness of the words pronounced by an English diplomat: the politician is better trained for battle than the soldier, because the politician fights all his life, but the soldier only in exceptional circumstances. War is by no means the goal and purpose or even the content of politics, but it is the precondition, always present as a real possibility, which determines human behavior and thinking in a particular way, and thereby causes a specific political behavior.

Therefore the criterion of the friend-enemy distinction does not at all mean that a certain people must eternally be the friend or enemy of a certain other, or that neutrality may not be possible or politically sensible. It is simply that the concept of neutrality, like every political concept, is also subject to this ultimate presupposition of a real possibility of a friend and enemy grouping, and if there were only neutrality on earth, not only war but neutrality itself would thereby be at an end, just as every policy, including a policy of avoiding conflict, is at an end when the real possibility of conflict ceases to exist at all. The mere possibility of this decisive case, the case of a real conflict, is always decisive, as well as the decision whether this case exists or not.

A world in which the possibility of such a conflict has been completely eliminated and disappeared, an ultimately pacified globe, would be a world without the distinction between friend and enemy, and consequently a world without politics. There might be in it many perhaps very interesting oppositions and antitheses, rivalries and intrigues of all kinds, but no conceivable opposition on the basis of which men might be required to sacrifice their lives and empowered to shed blood and kill other men. Again, for the definition of the political, it does not matter whether one wishes to create such a world without politics as an ideal situation. The phenomenon of the political can only be grasped by referring to the real possibility of friend and enemy groupings, regardless of the resulting religious, moral, aesthetic, and economic evaluation of the political.

War as the most extreme political means reveals the possibility of this distinction between friend and enemy, which underlies every political

idea, and is therefore only meaningful as long as this distinction is actually present in mankind or at least actually possible. On the other hand, a war waged for "purely" religious, "purely" moral, "purely" legal, or "purely" economic motives would be senseless. A friend-enemy grouping, and therefore also a war, cannot derive from the specific oppositions of these areas of human life. A war need be neither pious, nor morally good, nor profitable; today it is probably none of these things. This simple observation is often confused by the fact that religious, moral, and other oppositions can intensify into political oppositions and bring about the decisive conflict grouping according to friend or enemy. But when this conflict grouping occurs, the decisive opposition is no longer purely religious, moral, or economic, but political. The question is then always only whether or not such a friend-enemy grouping exists as a real possibility or reality, regardless of which human motives are strong enough to bring it about.

Nothing can escape this consequence of the political. If the pacifist opposition to war were so strong that it could drive the pacifists to war against the non-pacifists, into a "war against war," this would prove that it really had political strength, because it would be strong enough to group men according to friend and enemy. If the will to prevent war is so strong that it no longer shuns war itself, it has become a political motive, i.e. it affirms, if only as an extreme eventuality, war and even the reason of war. At present, this seems to be a particularly promising way of justifying wars. The war then takes place in the form of the "absolute last war of mankind." Such wars are necessarily especially intense and inhuman wars, because, going beyond the political, they must at the same time degrade the enemy in moral and other categories and make him an inhuman monster, which must not only be repelled but definitively destroyed, i.e., he is no longer merely an enemy to be pushed back within his borders. But the possibility of such wars shows especially clearly that war still exists today as a real possibility, and it is on that alone that the friend-enemy distinction and the realization of the political depend.

IV

Any religious, moral, economic, ethnic, or other antagonism will turn into a political antagonism if it is strong enough to effectively group people by friend and enemy. The political does not lie in combat itself, which in turn has its own technical, psychological, and military laws, but, as I have stated, in a behavior determined by this real possibility, in the clear recognition of one's own situation, which is determined by this possibility, and in the task of distinguishing friend and enemy correctly. A religious community that wages wars as a community, be it against members of other religious communities or other wars, is more than a merely religious community: it is a political entity. It is also a political entity if it has even a solely negative influence on that decisive event, if it is able to prevent wars by prohibiting its members from participating, i.e. to decisively deny the enemy quality of an opponent. The same applies to an association of people based on economic principles, for example an industrial concern or a trade union. Even a "class" in the Marxist sense of the word ceases to be something purely economic and becomes a political entity when it reaches this decisive point, i.e., when it takes "class struggle" seriously and treats the class enemy as a real enemy and fights against him, whether as a state against state, or in civil war within a state. The real struggle then necessarily no longer takes place according to economic laws, but has—alongside the methods of combat in the narrowest technical sense—its political necessities and orientations, coalitions, compromises, etc. Should the proletariat seize political power within a state, a proletarian state will arise, which is no less a political entity than a nation-state, a theocratic, mercantile, military, or bureaucratic state, or any other category of political entity. If one could group all of mankind into proletarian and capitalist states according to the distinction of proletarian and bourgeois as friend and enemy, and if all other friend-enemy groupings were to disappear in them, then the whole reality of the political would become apparent when these apparently "purely economic" concepts would become political. If the political power of a class or other group within a people is only such that it can prevent any war from being waged outwardly,

without itself having the ability or the will to take over state power, to distinguish friend from enemy of its own accord, and if necessary to wage war, then the political entity is destroyed.

The political can draw its power from the most diverse areas of human life, from religious, economic, moral, and other distinctions. It does not constitute its own separate subject area, but only the intensity of an association or dissociation of people whose motives may be religious, national (in an ethnic or cultural sense), economic, or some other kind, and may cause different connections and distinctions at different times. The real friend-enemy grouping is so existentially strong and decisive that at precisely the moment when a non-political antagonism brings about this grouping, its hitherto "purely" religious, economic, or cultural criteria and motives are pushed aside and subordinated by the completely new, unique, and, compared to that "purely" religious, economic, or other starting point, often very inconsistent and "irrational" conditions and consequences of the now political situation. In any case, the political is always the grouping that is oriented towards the emergency. It is thus always the decisive human grouping, the political entity (if it exists at all) thus always the decisive entity, and "sovereign" in the sense that the decision about the critical case, even if it is an exceptional case, must always conceptually reside with this political entity.

The word "sovereignty" has a good meaning here, as does the word "unity." Neither of these in any way implies that every detail of the existence of every man who belongs to a political unit should be determined and commanded politically, nor that a centralized system should destroy every other organization or corporation. It may be that economic considerations are stronger than anything the government of a supposedly economically neutral state wants; likewise, religious convictions can easily determine the power of a supposedly denominationally neutral state. What things always depend on is only the possibility of conflict. If the economic, cultural, or religious counterforces are so strong that they determine the decision in a case of emergency by themselves, then they have become the new substance of a political entity. If they are not strong enough to prevent a war decided against their interests and principles, it becomes clear that they have not

reached the decisive point of the political. If they are strong enough to prevent a war willed by the state leadership and contrary to its interests or principles, but not strong enough to determine a war by their own decision, there is no longer a uniform political entity. Whatever the case may be, because of the orientation to the possible emergency of an actual conflict against an actual enemy, the political entity is necessarily either decisive for the grouping of friends and enemies, and sovereign in this sense (not in any absolutist sense), or it does not exist at all.

When the great political significance of economic associations within the state was recognized, and especially with the growth of the unions against whose economic weapon, the strike, the laws of the state were quite powerless, the death and end of the state was hastily proclaimed. This happened, as far as I can see, as actual doctrine only since 1906 and 1907 among the French syndicalists.[15] Duguit is the best-known political theorist in this milieu; since 1901 he has attempted to refute the concept of sovereignty and the idea of the personality of the state, with some apt arguments against an uncritical metaphysics of the state and the personification of the state, which are, after all, only remnants from the world of absolute monarchy, but in essence miss the actual political sense of the concept of sovereignty. The same applies to G.D.H. Cole and Harold J. Laski's so-called pluralist theory of state, which appeared somewhat later in Anglo-Saxon countries.[16] Their pluralism consists in denying the sovereignty of the state, i.e. the political entity, and emphasizing time and again that the individual has many different social bonds and associations: he is a member of a religious community, a nation, a trade union, a family, a sports club, and many other "associations" which control him to different degrees from case to case and bind him in a "plurality of commitments and loyalties," without it being possible to say of any of these associations that they are necessarily authoritative and sovereign. Rather, each of the various "associations" may prove to be the strongest in a different field, and the conflict of loyalties and allegiances can only be decided case by case. It would be conceivable, for example, that if a trade union issues an edict that they will no longer attend church, the members of a trade union

might still go to church, but at the same time they might also disobey an order issued by the church to leave the union.

Particularly striking in this example is the coordination of religious and professional associations, which can become an alliance of churches and unions as a result of their common opposition to the state. This is typical of the pluralism found in Anglo-Saxon countries, whose theoretical starting point, besides Gierke's theory of association, was above all the book by J. Neville Figgis on churches in the modern state (1913).[17] The historical events to which Laski returns again and again and which apparently made a great impression on him are Bismarck's simultaneous and similarly unsuccessful actions against both the Catholic Church and the Socialists. In the "*Kulturkampf*" (culture war) against the Roman Church, it became clear that even a state with the unbroken strength of Bismarck's *Reich* was not absolutely sovereign and all-powerful; neither was this state victorious in its struggle against the socialist workers, nor would it have been able, in the economic sphere, to take from the trade unions the power lying in the right to strike.

This critique is largely accurate. In fact, the expressions of the "omnipotence" of the state are often only superficial secular-izations of the theological formulations of the omnipotence of God. Moreover, the nineteenth century German doctrine of the "personality" of the state is partly a polemical antithesis directed against the personality of the "absolute" prince, and partly against the conception of the state as the "higher third," a distraction from the elusive dilemma of monarchical versus popular sovereignty.

But this does not answer the question of which "social entity" (if I may take up the imprecise liberal concept of the "social" here) makes decisions in case of conflict and determines the decisive friend-enemy grouping. Neither a church, nor a trade union, nor an alliance of the two would have prohibited or prevented a war that the German *Reich* under Bismarck wanted to wage. Of course, Bismarck could not declare war on the Pope, but only because the Pope himself no longer had a *jus belli*; nor did the socialist unions think to act as "*partie belligérante*." In any case, no instance would have been conceivable in which any entity

could or would have wished to oppose a decision on an extreme case by the German government of the time, without itself becoming a political enemy and facing all the consequences that pertain to that concept; conversely, neither the Church nor any trade union wished to engage in a civil war.[18] This is enough to establish a reasonable concept of sovereignty and entity. The political entity is precisely by its very nature the authoritative entity, no matter from what forces it draws its ultimate psychological motives. It exists or it does not exist. If it exists, it is the highest, i.e. the decisive entity in the decisive case.

The fact that the state is an entity, and indeed the authoritative entity, rests on its political character. A pluralist theory of state is either the theory of a state that has come to unity through a federalism of social associations, or it is only a theory of the dissolution or refutation of the state. If this theory denies the state as an entity and places it as a "political association" alongside other associations of the same nature, such as religious or economic associations, it must above all answer the question of the specific content of the political. But in none of Laski's many books is there a specific definition of the political, although there is always talk of state, politics, sovereignty, and "government." The state is simply transformed into an association that competes with other associations; it becomes a society alongside and among any other societies that exist within or outside the state. This is the "pluralism" of this theory of state, all of whose astuteness is directed against the former exaggerations of the state, against its "majesty" and its "personality," against its "monopoly" of the being the highest entity, while it remains unclear what a political entity should be at all now. Soon it appears in the old liberal manner as a mere servant of the essentially economically determined society, sometimes pluralistically as a special kind of society, an association among other associations, and sometimes as the product of a federalism of social associations, or a kind of umbrella association of associations. Above all, however, it would have to be explained why, in addition to religious, cultural, economic, and other associations, people form a political association, a "governmental association," and what the specific political meaning of this last type of association is. Here a sure and clear line of thinking cannot be

discerned, and as the final, comprehensive, thoroughly monistically universal, and by no means pluralistic concept, Cole proposes "society," Laski "humanity."

This pluralist theory of the state is above all pluralist itself, i.e. it has no uniform center, but draws its intellectual motives from quite diverse circles of ideas (religion, economics, liberalism, socialism, etc.). It ignores the central concept of every theory of state, the political, and does not even discuss the possibility that the pluralism of associations might lead to a federally patched-together political entity. It remains entirely stuck in liberal individualism, because in the end it does nothing but play off one association against the other, with all questions and conflicts being decided by the individual in the service of the free individual. In reality there is no political "society" or "association," there is only a political entity, a political "community." The real possibility of grouping friend and enemy is sufficient to create, beyond the merely social-associative groupings, an authoritative entity which is specifically different and decisive in relation to the other associations.[19] In the eventuality that this political entity were absent, then the political itself would also be absent. Only as long as the essence of the political is not recognized or not observed is it possible to put a political "association" pluralistically on the same level as a religious, cultural, economic, or other association, and let it compete with them. As will be shown below (Chapter VI), however, pluralistic consequences arise from the concept of the political, but not in the sense that within one and the same political entity a pluralism of the authoritative friend-enemy grouping could exist without the political itself being destroyed along with the entity.

V

The *jus belli*, i.e., the real possibility of determining the enemy by one's own decision in a given case and then combating him, pertains to the state as an essentially political entity. The technical means by which the struggle is waged, whatever army organization exists, the prospects of winning the war—all are irrelevant here, as long as a politically united people is prepared to struggle for its existence and its independence, whereby it determines by its own decision what this independence and freedom consist of. The development of military technology seems to lead to perhaps only a few states remaining whose industrial power allows them to wage a war with good prospects, while smaller and weaker states voluntarily or by necessity renounce the *jus belli* if they do not succeed in preserving their independence by a suitable policy of alliance. This development would not at all prove that war, state, and politics would cease. Each of the countless changes and upheavals in human history and development has produced new forms and new dimensions of political grouping, destroyed previously existing political entities, provoked foreign and civil wars, and increased or decreased the number of organized political entities.

The state as the authoritative political entity contains an enormous power concentrated in itself: the possibility of waging war and thus openly having human lives at its disposal. The *jus belli* contains such a disposition; it indicates a double possibility: that of demanding from members of one's own people readiness to kill and die, and that of killing people standing on the enemy side. But the achievement of a normal state consists above all in bringing about complete peace within the state and its territory, in establishing "peace, security, and order," and thus in creating the normal situation, which is the precondition for legal norms to be valid at all, since every norm presupposes a normal situation, and no norm can apply to a situation that is wholly abnormal in relation to it.

In critical situations, this necessity for domestic peace leads the state as a political entity, as long as it exists, to determine its "internal enemies" as well. In all states, therefore, there exists in one form or

another that which the constitutional law of the Greek republics knew as the πολέμιος (*polemios*) declaration, the Roman constitutional law as the *hostis* declaration; there exist sharper or milder forms of ostracism, banishment, proscription, stripping of the right to peace, outlawing—in a word, the declaration of the enemy within the state, which is *ipso facto* applicable or legally effective by virtue of special laws, whether explicit or hidden in general circumlocutions. Depending on the behavior of those declared enemies of the state, this may be a sign of civil war, i.e., the dissolution of the state as an organized political entity that is internally peaceful, territorially self-contained, and impenetrable to foreigners. The civil war then decides the further fate of this entity. This applies not less but more as a matter of course for a constitutional civil state under the rule of law than for any other state, despite all the constitutional ties by which the state is bound.

In the "constitutional state," as Lorenz von Stein says, the constitution is "the expression of the social order, the existence of the civic society itself. If it is attacked, therefore, the struggle must be decided outside the constitution and the law, that is, with the force of arms."

From Greek history, the most famous example is probably the psephism of Demophantos. This popular decision, taken by the Athenian people after the expulsion of the four hundred in 410 B.C., declared that anyone who attempted to dissolve the Athenian democracy was "an enemy of the Athenians."[20] From the practice of the Jacobins and the *Comité de salut public*, there are numerous examples of *hors-la-loi* declarations in Aulard's History of the French Revolution; noteworthy is a text written by E. Friesenhahn, Der politische Eid, 1928, p. 16, quoted in the report of the *Comité de salut public*: "*Depuis le peuple français à manifesté sa volonté tout ce qui lui est opposé est hors le souverain; tout ce qui est hors le souverain, est ennemi... Entre le peuple et ses ennemis il n' y a plus rien de commune que le glaive*." (Since the French people has manifested its will, everything opposed to it is outside the sovereign; everything outside the sovereign is the enemy … Between the people and its enemies there is nothing in common but the sword.) Peace can also be established in such a way that members of certain religions or parties are suspected of lacking

peaceful or legal convictions. There are countless examples of this in the political history of heretics, for which the following argumentation by Nicolas de Vernuls (*de una et diversa religione* 1646) is characteristic: "One must not tolerate the heretic in the state even if he is peaceful (*pacifique*), because people like heretics cannot be peaceful at all."[21] The attenuated forms of *hostis* declarations are numerous and varied: confiscations, expatriations, prohibitions of organisation and assembly, exclusion from public office, etc.[22]

The power to dispose of a person's life or death in the form of a criminal judgment, the *jus vitae ac necis*, may also be vested in another connection existing within the political entity, such as the family or the head of the family, but not, as long as the political entity as such exists, the *jus belli* or the right of *hostis* declaration. A right of blood revenge between families or clans would also have to be suspended at least during a war, if a political entity were to be established at all. A human association that wished to renounce these consequences of political unity would not be a political association, for it would renounce the possibility of decisively deciding whom it considers and treats as an enemy. By this power over the physical life of men, the political community rises above any other kind of community or society. Within the community, substructures of a secondary political character can then again exist with their own or delegated powers, even with a *jus vitae ac necis* limited to members of a narrower group.

A religious community, a church, can demand of its member that he die for his faith and suffer martyrdom, but only for his own salvation, not for the church community as a worldly power structure; otherwise, it becomes a political power; its holy wars and crusades are actions based on a determination of the enemy like other wars. In an economically determined society, whose order consists of predictable functioning in the realm of economic categories, it cannot be demanded under any conceivable point of view that any member of society should sacrifice his life in the interest of undisturbed business. The justification of such a demand on the basis of economic expediency would never justify a contradiction between the individualistic principles of a liberal economic order and the norms or ideals of an autonomously conceived

economy. The individual man may die voluntarily for what he wishes; this, like all things essential in an individualistic liberal society, is by all means a "private matter," i.e., a matter for his free, uncontrolled resolution, which is not for anyone other than the free individual himself.

An economically oriented society has sufficient means to put those who are inferior and unsuccessful in economic competition, or even "troublemakers," outside of its inner circles and to neutralize them in a non-violent, "peaceful" way—in concrete terms, to let them starve if they do not submit voluntarily; a purely cultural or civilized social system will not lack "social indications" to get rid of undesirable dangers or unwanted additions. But no program, no ideal, no norm, and no expediency gives a right of disposal over the physical life of other people. To seriously demand that people kill and be willing to die so that the trade and industry of the survivors will flourish, or so that the consumer power of their grandchildren will flourish, is horrible and insane. To curse war as murder, and then to demand of men that they wage war, and kill in war, and be killed in war, so that there may "never be war again," is a manifest fraud. War, the readiness for death of fighting men, the physical killing of other men on the enemy side, all this has no normative sense, but only an existential sense, and this in the reality of a situation of real struggle against a real enemy, not in any ideals, programs, or norms. There is no rational purpose, no norm no matter how proper, no program no matter how commendable, no social ideal no matter how beautiful, no legitimacy or legality, that could justify people killing each other for it. If such a physical destruction of human life does not result from the assertion of one's own form of existence against a negation of this form, then it cannot be justified. Nor can war be justified by ethical and legal norms. If there really are enemies in the existential sense, as is meant here, it is sensible, but only politically sensible, to ward them off physically, and to fight them if necessary.

It has been generally recognized that justice does not pertain to the concept of war since Grotius' writing.[23] The postulations that call for a just war usually serve a political purpose themselves. To demand of a

politically united people that it wage war only for a just cause is either something quite self-evident, if it is said that war is to be waged only against a real enemy, or else there is hidden behind it a political agenda to put the disposition of the *jus belli* into other hands, and to find norms of justice whose content and application are decided in individual cases not by the state itself but by some other third party, who in this way determines who the enemy is. As long as a people exists in the sphere of the political, it must determine for itself the distinction between friend and enemy, even if only in the most extreme case, whose existence it decides for itself. Therein lies the essence of its political existence. If it no longer has the ability or the will to make this distinction, it ceases to exist politically. If it lets a stranger dictate to it who its enemy is and against whom it may or may not fight, it is no longer a politically free people, and is absorbed into or subordinated to another political system. A war has its justification not in that it is waged for ideals or legal norms, but in that it is waged against a real enemy. All the confusions of this category of friend and enemy are explained as the result of mixture with some sort of abstraction or norm.

A politically existing people cannot therefore do without distinguishing between friend and enemy by its own destiny and at its own risk. It can solemnly declare that it condemns war as a means of resolving international disputes and renounces it "as an instrument of national policy," as it did in the so-called Kellogg Pact of 1928.[24] Thus it has neither renounced war as an instrument of international policy (and a war serving international policy can be worse than a war serving only national policy), nor has it "condemned" or "outlawed" war at all. Firstly, such a declaration is entirely subject to certain reservations, which, explicit or implicit, are self-evident, e.g. the reservation of one's own state existence and self-defense, the reservation of existing treaties, the right of free and independent further existence, etc. Secondly, these reservations, as far as their logical structure is concerned, are not mere exceptions to the norm, but rather give the norm its concrete content in the first place; they are not peripheral restrictions of the obligation which reserve exceptions, but norm-giving reservations, without which the obligation is without content. Thirdly, as long as an independent

state exists, this state decides by virtue of its independence for itself whether the case of such a reservation (self-defense, attack by the opponent, violation of existing treaties including the Kellogg-Pact itself, etc.) exists or not. Fourthly and finally, war cannot be "outlawed" at all, but only certain men, peoples, states, classes, religions, etc, who are to be declared the enemy by outlawing them. Thus even the solemn "outlawing of war" does not abolish the friend-enemy distinction, but gives it new content and new life by new possibilities of an international *hostis* declaration.

If this distinction is missing, political life is missing altogether. A politically existing people is by no means free to escape this fateful distinction by means of evocative proclamations. If a part of the people declares that it no longer recognizes any enemy, it takes the side of the enemy and helps them as the situation demands, but the distinction between friend and enemy is not thereby abolished. If the citizens of a state claim of themselves that they personally have no enemies, this has nothing to do with this question, for a private man has no political enemies; with such declarations he can at most mean that he wants to distinguish himself from the political totality to which he belongs existentially, and wants to live only as a private man.[25] It would furthermore be a mistake to think that a single people could avoid the friend-enemy distinction by a declaration of friendship to all the world or by voluntarily disarming itself. In this way the world will not be depoliticized and will not be put into a state of pure morality, pure legality, or pure economics. If a people fears the toils and risks of political existence, another people will relieve it of these toils by taking over its "protection against external enemies" and thus its political rule; the patron then determines the enemy, by virtue of the eternal connection of protection and obedience.

It is not only the feudal order and relationship of feudal lord and vassal, leader and follower, patron and client that is based on this principle, which only makes it especially clear and openly apparent and does not conceal it, but in fact there is no superiority or subordination, no reasonable legitimacy or legality, without the relationship of protection and obedience. The *protego ergo obligo* is the *cogito ergo*

sum of the state, and a theory of state that does not become systematically aware of this sentence remains an inadequate fragment. Hobbes described (at the end of the English edition of 1651, p. 396) the actual purpose of his *Leviathan* as being to bring back to people the "mutual relation between Protection and Obedience," whose steadfast observation is demanded by human nature as well as by divine law.

Hobbes learned this truth during the terrible times of the civil war, because then all the legitimizing and normative illusions with which people like to hide political realities in times of untroubled security vanish. If parties organized within a state are able to provide their members with more protection than the state, the state becomes at best an annex to these parties, and the individual citizen knows whom to obey. A "pluralistic theory of state" can be used to justify this, as discussed above (Chapter IV). The elementary correctness of this protection-obedience axiom becomes even more evident in foreign policy and interstate relations. The simplest expression of this axiom is found in the protectorate under international law, the hegemonic confederation of states or federal states, and various sorts of protection treaties and guarantees.

It would be foolish to believe that a defenseless people has only friends, and a preposterous calculation that the enemy could perhaps be stirred by non-resistance. That men could transform the world into a state of pure morality by renouncing all aesthetic or economic productivity, for example, no one would think possible; but still less could a people, by renouncing all political decision, bring about a purely moral or purely economic state of mankind. *Just because a people no longer has the strength or the will to remain in the sphere of the political, does not make the political disappear from the world. Only a weak people disappears.*

VI

The conceptual characteristics of the political necessitate a world of multiple states. The political entity presupposes the real possibility of the enemy, and thus another, coexisting, political entity. Therefore, as long as there is a state entity at all, there will always be multiple states on earth, and there cannot be a "world state" encompassing the whole earth and all mankind. The political world is a multiverse, not a universe. In this respect every theory of state is pluralistic, albeit in a different sense than the intra-state pluralistic theory discussed above (Chapter IV). Political unity cannot by its very nature be universal in the sense of a unity encompassing all humanity and the whole earth. If the various peoples, religions, classes, and other groups of men on earth were all united in such a way that a struggle between them became impossible and unthinkable, and civil war, even within an empire encompassing the whole earth, were in fact out of the question for all time to come, and not even within the realm of possibility, then the distinction between friend and enemy would cease to exist even as a mere eventuality. There would be only pure ideology, culture, civilization, economy, morals, law, art, entertainment, etc., and neither politics nor state. Whether and when this state of the earth and of mankind will occur, I do not know. For the time being it does not exist. It would be a dishonest fiction to accept it as existing, and would mean a confusion that would be quickly settled, because today a war between great powers could easily become a "world war," the end which would consequently have to represent "world peace," and thus that idyllic final state of complete and ultimate depoliticization.

Humanity as such cannot wage war because it has no enemy, at least not on this planet. The concept of humanity excludes the concept of the enemy, because the enemy does not cease to be human either, and it contains no specific distinction. That wars are waged in the name of humanity is not a refutation of this simple truth, but have only a particularly intense political meaning. When a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war for which a certain state seeks to occupy a universal concept

vis-à-vis its opponent in war, in order to identify itself with it at the expense of the opponent, just as peace, justice, progress, and civilization can be abused in order to claim them for oneself and deny them to the enemy. "Humanity" is a particularly useful ideological instrument of imperialist expansion and, in its ethical-humanitarian form, a specific vehicle of economic imperialism. Here, with an obvious modification, a saying coined by Proudhon applies: "Whoever invokes 'humanity' wishes to cheat." The invocation of the term "humanity," the appropriation of this word, could only manifest the terrible claim that the enemy is to be denied the quality of humanity, that he is to be declared *hors-la-loi* and *hors l' humanité*, because one cannot, after all, use such lofty names without certain consequences. In this way war can be driven to the utmost inhumanity.[26] But apart from this highly political exploitability of the apolitical name of humanity, there are no wars of humanity as such. Humanity is not a political concept, nor does any political entity or community or status correspond to it. The 18th century humanitarian concept of humanity was a polemical negation of the aristocratic-feudal or corporative order of the time and its privileges. The humanity of natural law and liberal-individualistic doctrines is a construction, a universal social ideal, i.e. one that encompasses all the peoples of the earth, a system of relations between individuals that only really exists when the real possibility of conflict has been excluded and every friend-enemy grouping has become impossible. In this universal society there will then no longer be any peoples as political entities, but also no competing classes, and no hostile groups.

The idea of a League of Nations was clear and precise as long as the League of Nations could be held up as a polemical antithesis to a League of Princes. This is how the German word *Völkerbund* (literally "League of Peoples") came into being in the 18th century. With the political significance of the monarchy, this polemical meaning ceased to exist. A "League of Nations" could moreover be the ideological instrument of imperialism of a state or a coalition of states directed against other states. In that case everything that was said earlier about the political use of the word "humanity" would apply to it. Moreover, the foundation of a League of Nations embracing the whole of humanity

could ultimately correspond to the hitherto only vague tendency to organize an apolitical idealized state of the universal society of "humanity." Therefore, almost always quite uncritically, it is claimed that such a League of Nations should become "universal," i.e., that all states on earth must become its members. Universality, however, would first and foremost have to mean complete depoliticization, and thus at the very least the systematic dissolution of states.

From this point of view, the Geneva institution founded in 1919 by the Paris Peace Treaties, which in Germany is known as the "League of Peoples," or better after its official Franco-English name (*Société des Nations*, League of Nations), appears to be a contradictory construction. It is an intergovernmental organization which presupposes the existence of states as such, regulates some of their mutual relations, and even guarantees their political existence. Not only is it not a universal organization, but it is not even an international organization, if the word *international* is used correctly and honestly, in the German sense, as distinct from *intergovernmental,* and reserved only for those movements which are, truly international, i.e. those which transcend the borders of states and ignore the hitherto territorial unity, impenetrability, and impermeability of the existing states, as does the Third International. Here the elementary contrasts are immediately apparent between international and intergovernmental, between depoliticized universal society and intergovernmental guarantee of the status quo of today's borders, and it is fundamentally hardly comprehensible how a scholarly treatment of the League of Nations could overlook and even support this confusion. The Geneva League of Nations does not abolish the possibility of wars, any more than it abolishes states. It introduces new possibilities for war, allows wars, promotes coalition wars, and removes a number of obstacles to war by legitimizing and sanctioning certain wars. As it exists today, it is a potentially very useful negotiating tool, a system of diplomatic conferences that meet under the names of the League of Nations Council and the League of Nations Assembly, combined with a technical office, the Permanent Secretariat. It is not a federation, as I have shown elsewhere,[27] but it is possibly an alliance. The true concept of humanity is still applicable to it only in so far as its

actual activity is in the humanitarian, non-political sphere, and it has at least a "tendency" to universality as an intergovernmental administrative community. However, in view of its actual constitution and the possibility of war even within this so-called "League," even this tendency is only an ideal postulate. A non-universal League of Nations, however, can of course only have political significance if it represents a potential or current alliance, a coalition. This would not eliminate the *jus belli*, but would, more or less, completely or partially transfer it to the alliance. A League of Nations as a concretely existing universal organization of humanity, on the other hand, would have to accomplish the difficult task, first, of effectively taking away the *jus belli* from all existing human groupings and, second, of not assuming any *jus belli* for itself; otherwise universality, humanity, depoliticized society—in short, all its essential characteristics would be lost again.

If a "world state" embraces the whole earth and all mankind, it is therefore not a political entity, and can be called a state only as an expression. If indeed the whole of mankind and the whole earth were united on the basis of a merely economic and commercial-technical entity, it would no longer be a primarily "social entity," any more than the inhabitants of a tenement, or the gas consumers connected to the same gas works, or the passengers of the same bus are a social entity. As long as this entity remained only economic or commerce-related, it could not even rise to an economic and commercial party for lack of an adversary. If, in addition, it wished to form a cultural, ideological, or otherwise "higher" but still absolutely apolitical entity, it would be a consumer and productive cooperative seeking a balance point between the polarities of ethics and economics. It would know neither state nor kingdom nor empire, neither republic nor monarchy, neither aristocracy nor democracy, neither protection nor obedience, but would lose any political character at all.

But it is obvious to ask the question, which people will be given the terrible power of an economic and technical centralization covering the whole world? This question can by no means be dismissed by the hope that then everything will just "run by itself," that things will "administer themselves," and that a government of men over men will become superfluous, because people will be absolutely "free"; for the question

is, just what do they become free for? To this one can answer with optimistic or pessimistic conjectures, which in the end all boil down to an anthropological profession of faith.

VII

One could examine all theories of state and political ideas for their anthropology and classify them according to whether they presuppose, consciously or unconsciously, man as "evil by nature" or a "good by nature." The distinction is to be made quite summarily and not in a specifically moral or ethical sense. What is decisive as a precondition for any further political consideration is the conception of man as problematic or unproblematic, the answer to the question whether man is dangerous or not, a risky or a harmlessly non-risk being.

The countless modifications and variations of this anthropological distinction between good and evil will not be discussed in detail here. Evil may appear as corruption, weakness, cowardice, stupidity, or also as crudeness, compulsiveness, vitality, irrationality, etc. Goodness may appear in corresponding variations as reasonableness, perfectibility, tractability, educability, amicable peacefulness, etc. The striking political interpretability of the animal fables, almost all of which can be related to a current political situation (e.g. the problem of the "attack" in the fable of the wolf and the lamb; the question of guilt in La Fontaine's fable about the guilt for the plague, which of course is the donkey's; interstate justice in the fables about the animal assemblies; disarmament in Churchill's election speech of October 1928, where it is explained how every animal presents its teeth, claws, and horns as means serving to maintain peace; the big fish that eat the small ones, etc.). This can be explained from the direct connection of political anthropology with what the philosophers of state of the seventeenth century (Hobbes, Spinoza, Pufendorff) called the "state of nature" in which states exist among each other in a state of perpetual danger and threat, whose acting subjects are "evil" precisely for this reason, like the animals moved by their drives (hunger, greed, fear, jealousy). It is therefore not necessary for our consideration to differ with Dilthey: "According to Machiavelli, man is not evil by nature. Some places seem to say this... But everywhere he only wishes to express that man has an irresistible tendency to slide from desire to evil, if nothing counteracts it: animality, drives, emotions are the core of human nature, above all love and fear.

He is inexhaustible in his psychological observations about the play of emotions... From this basic feature of our human nature he derives the fundamental law of all political life."[28] Eduard Spranger says very aptly in the chapter "*Der Machtmensch*" (The Man of Power) of his *Lebensformen*: "For the politician, the science of man is of course at the forefront of his interest." But it seems to me that Spranger sees this interest too much in a technical sense, as an interest in the tactical manipulation of the mechanism of human drives; in the further elaboration of this chapter, which is rich in thoughts and observations, the specifically political phenomena and the entire existentiality of the political can be recognized again and again in overwhelming tangibility. For example, the sentence "The dignity of a type of power seems to grow with its sphere of influence," refers to a phenomenon that belongs in the sphere of the political and can therefore only be understood politically. It is a case of application of the thesis that the point of the political is determined by the intensity of detachment, according to which the decisive associations and dissociations are determined. Hegel's proposition of turning quantity into quality is also only understandable as political thinking.[29] H. Plessner, who was the first modern philosopher (in *Macht und menschliche Natur*, Berlin 1931) to propose a political anthropology on a grand scale, correctly states that there is no philosophy or anthropology that is not politically relevant, just as there is no philosophically irrelevant politics; he has recognized in particular that philosophy and anthropology, as knowledge that is specifically applicable to the whole, cannot be neutralized against "irrational" life decisions, as some specialized knowledge in certain fields can. For Plessner, man is "primarily a distancing being," who in his essence remains indeterminate, unfathomable, and an "open question." Translated into the primitive language of that naive political anthropology that operates with the distinction between good and evil, Plessner's dynamic "openness," with its daring proximity to reality and facts, might be closer to evil than to good, if only because of its positive relationship to danger and the dangerous. This corresponds with the fact that Hegel and Nietzsche likewise belong on the "evil" side; after all,

power in general (according to Burckhardt's well-known expression, which, by the way, is somewhat ambiguous) is something evil.

As I have often shown, the opposition between so-called authoritarian and anarchist theories can be traced back to these formulas.[30] Some of the theories and constructions that presuppose man as "good" in such a way are liberal, and polemically directed against the intervention of the state, without actually being anarchist. In open anarchism it is readily apparent how closely the belief in "natural goodness" is related to the radical negation of the state, one following from the other and both supporting each other. To the liberals, on the other hand, human goodness means nothing more than an argument with which the state is put to the service of society, and thus it only says that society has its own order and the state is only its subordinate, controlled and treated with suspicion, bound to certain limits. This is the classical formulation of Thomas Paine: society is the result of our reasonably regulated needs, the state is the result of our vices.[31] Radicalism against the state is growing in proportion to the belief in the radical good of human nature. Bourgeois liberalism has never been radical in a political sense. But it is self-evident that its negations of the state and the political, its neutralization, depoliticizations, and declarations of freedom also have a certain political meaning and are polemically directed against a certain state and its political power in a certain situation. But they are not really a theory of state or a political idea. Liberalism does not radically deny the state, but on the other hand it has not found a positive theory of state or its own state reform, but only sought to sequester the political on the basis of ethics, and to subject the political to the economic; it has created a doctrine of the separation and balance of powers, i.e. a system of checks and balances of the state that cannot be called a state theory or a constructive political principle.

Accordingly, the strange—and for many certainly disturbing—observation remains that all genuine political theories presuppose man as evil, i.e., as not at all unproblematic, but as a dangerous and dynamic being. Any specifically political thinker can easily prove this. As different as these thinkers may be in type, rank, and historical significance, they agree in the problematic conception of human nature

to the same extent to which they show themselves to be specifically political thinkers. It suffices to mention here the names of Machiavelli, Hobbes, Bossuet, Fichte (as soon as he forgets his humanitarian idealism), de Maistre, Donoso Cortés, H. Taine, and Hegel, who admittedly shows his bipartite nature occasionally here, too.

Nevertheless, Hegel remains everywhere political in the greatest sense. Even those of his writings which concern current affairs of his time, in particular and above all the ingenious work of his youth, *Die Verfassung Deutschlands* (The Constitution of Germany), are only self-evident documentation of the philosophical truth that all spirit is present spirit, which remains visible through its ephemeral correctness or incorrectness, and which cannot be found or sought in baroque representation or even in romantic alibi. This is Hegel's *Hic Rhodus* and the authenticity of a philosophy that does not engage in the fabrication of intellectual dragnets in the name of "apolitical purity" and pure non-politics. His dialectic of concrete thinking is also specifically political. The oft-quoted phrase about turning quantity into quality has a thoroughly political meaning and is an expression of the realization that every subject area reaches the point of the political, and thus a qualitatively new intensity of human grouping. The actual application of this phrase for the nineteenth century refers to the economic; in the "autonomous," supposedly politically neutral subject area of economy, such a change took place continuously, i.e., a politicization of the hitherto apolitical and purely objective; here, for example, economic property, when it had reached a certain quantity, became obviously "social" (more correctly: political) power, *propriété* became *pouvoir*, and class antagonism, at first motivated only by economic motives, became the class struggle of hostile groups. In Hegel we also find the first polemically political definition of the bourgeois, as a person who does not want to leave the sphere of the risk-free, apolitical, and private, who, with the possession and righteousness of his private property, behaves as an individual against the whole, who finds the substitute for his political nullity in the fruits of peace and acquisition and, above all, "in the complete security of the enjoyment of these," who, as a result, wishes to remain spared from bravery and removed from the danger of

violent death.[32] Hegel also finally established a definition of the enemy that is otherwise usually avoided by modern philosophers: it is the ethical difference (not in the moral sense, but in the sense of the "absolute life" in the "eternal of the people") manifested as the Foreign in its living totality that is to be negated. "Such a difference is the enemy, and difference, correspondingly, is simultaneously its counterpart, the existence of opposites, yet also the negation of the enemy; and this negation on both sides equally is the danger of the conflict. This enemy can ethically only be an enemy of the people and itself only another people. Because here the particularity appears, so it is for the people that the individual puts himself in danger of death." "This war is not a war of families against families, but of peoples against peoples, and thus hatred itself is undifferentiated, separate from all personality." The question is how long the spirit of Hegel really resided in Berlin. In any case, the direction that became decisive in Prussia from 1840 onward preferred to have itself furnished with a "conservative" state philosophy, namely by Friedrich Julius Stahl, while Hegel wandered via Karl Marx to Lenin and to Moscow. There his dialectical method proved its concrete power in a new concrete concept of the enemy, that of the class enemy, and transformed both itself, the dialectical method, and everything else—legality and illegality, the state, even compromise with the opponent, into a weapon of this struggle. In Georg Lukács' work (*Geschichte und Klassenbewußtsein* 1923, *Lenin* 1924), this topicality of Hegel is most vivid. Lukács also quotes a saying by Lenin which Hegel would have said of the political entity of a warring people instead of that of a class: "People," says Lenin, "who understand politics as little tricks, which sometimes border on deceit, must be most decisively rejected. Classes cannot be deceived." The question is not settled with psychological remarks about "optimism" or "pessimism"; neither is it settled, in the anarchist manner, with a reversal, saying that only those who consider man to be evil are evil, from which follows that those who consider him to be good, i.e. the anarchists, are empowered to some sort of dominion or control over the evil, with which the problem begins again. It must rather be observed how much the anthropological presuppositions differ

in the various fields of human thought. An educator will, with methodical necessity, consider the human being to be trainable and educable. A jurist of private law proceeds from the sentence: "*unus quisque praesumitur bonus*"[33] (one who is presumed to be good). A theologian ceases to be a theologian when he no longer considers men sinful or in need of redemption, and no longer distinguishes redeemed from unredeemed, chosen from not-chosen. The moralist presupposes a freedom of choice between good and evil.[34] Now, because the sphere of the political is ultimately determined by the real possibility of an enemy, political ideas and trains of thought cannot well take an anthropological optimism as their starting point. Otherwise, they would cancel out the possibility of an enemy, and thus any specifically political consistency.

The connection between political theories and theological dogmas of sin, which is particularly striking in the case of Bossuet, de Maistre, Bonald, Donoso Cortés, and F. J. Stahl, but just as operative in countless others, can be explained by the kinship of these necessary preconditions of thought. The fundamental theological dogma of the sinfulness of the world and of man—as long as theology has not yet turned to mere normative morality or to pedagogy and the dogma has not yet evaporated into mere discipline—leads to a division of people, to a "distancing," just as does the friend-enemy distinction, and makes the indiscriminate optimism of a universal conception of man impossible. In a good world among good people, of course, there is only peace, security, and harmony of all with all; priests and theologians would be just as superfluous here as politicians and statesmen. What the denial of original sin means socially and in individual psychology has been shown by Troeltsch in his *Soziallehren der christlichen Kirchen* (Social Teachings of the Christian Church) and Seiliière (in many publications on Romanticism and Romantics) by the example of numerous sects, heretics, romantics, and anarchists. The methodological connection of theological and political thought is thus clear. But theological support often confuses political concepts, because it usually shifts the distinction into the moral theological realm, or at least mixes it with it, and then mostly a normativist fictionalism or even a pedagogical-practical opportunism clouds the recognition of existential opposites. With their

"pessimism," political theorists such as Machiavelli, Hobbes, and often Fichte, in truth presuppose only the actual reality or possibility of a friend-enemy distinction. With Hobbes, a great and truly systematic political thinker, the "pessimistic" conception of man ultimately culminates in a war of all against all. Furthermore, his realization is correct that it is precisely the conviction of the true, good, and just, present on both sides, that brings about the worst enmities. This is not to be understood as the spawn of a fearful and disturbed imagination, but also not only as the philosophy of a bourgeois society based on free competition (Tönnies), but as the elementary presupposition of a specifically political system of thought.

Because they always have the concrete existence of a possible enemy in mind, these political thinkers often display a kind of realism that is suitable for frightening security-seeking people. It may be said—without wanting to decide on the question of man's natural qualities—that men in general, at least as long as they are doing tolerably well, love the illusion of an untroubled calm, and do not tolerate pessimists. Therefore it will not be difficult for the political opponents of a clear political theory to declare the clear recognition and description of political phenomena and truths in the name of some autonomous subject area as immoral, uneconomic, unscientific, and above all—because that is what matters politically—as devilry *hors-la-loi* and worth combating.

This fate befell Machiavelli, who, had he been a proper Machiavellian, would probably have written a book of touching aphorisms instead of *Il Principe*. In reality, Machiavelli was on the defensive, as was his homeland Italy, which was exposed to invasion by Germans, French, Spaniards, and Turks in the 16th century. The situation of ideological defense was repeated in Germany at the beginning of the 19th century, during the revolutionary and Napoleonic invasions of the French. It was then that Fichte and Hegel rehabilitated Machiavelli when it was important for the German people to defend themselves against an enemy expanding with a humanitarian ideology.

The worst confusion arises when terms such as law and peace are used politically in such a way as to prevent clear political thinking, to legitimize one's own political aspirations, and to disqualify or demoralize the opponent. Law as such, whether private or public law,

has its own relatively independent sphere, though certainly in the shadow of a large political decision, e.g. within the framework of a stable state system. But it can, like every sphere of human life and thought, be used either to support or to refute another sphere. From the standpoint of political thought it is natural and neither illegal nor immoral to pay attention to the political meaning of such utilizations of law or morality, and to ask always a few more detailed questions, especially in relation to the word “rule” or even the sovereignty of the law.

First, one must ask whether law here denotes the existing positive laws and legislative methods that are to continue to apply; then, in fact, the “rule of law” means nothing other than the legitimization of a certain status quo, in the maintenance of which, of course, everyone has an interest whose political power or economic advantage is stabilized through this law.

Secondly, the invocation of law might mean that a higher or more correct law, a so-called law of nature or reason, is opposed to the law of the status quo; then it is natural for a politician that the rule or sovereignty of this kind of law means the rule and sovereignty of men, who can invoke the higher law and decide what its content is and how and by whom it is to be applied. More clearly than all others, Hobbes has drawn these simple consequences of political thought with great imperturbability, and has emphasized time and again that the sovereignty of law means only the sovereignty of the people who set and administer the norms of the law; that the rule of a “higher order” is an empty phrase if it does not have the political sense that certain people wish to rule over people of a “lower order.” Here political thought is simply irrefutable in the independence and completeness of its sphere, for it is always concrete groups of men who fight against concrete other groups of men in the name of justice, or humanity, or order, or peace, and the observer of political phenomena, if he consistently sticks to his political thought, can, even in the accusation of immorality and cynicism, again and again recognize in such an accusation only a political weapon used by concretely fighting men.

Political thought and political instinct thus prove their worth theoretically and practically in their ability to distinguish friend from

enemy. The high points of great politics are at the same time the moments when the enemy is seen in concrete clarity as the enemy.

For the modern age I see the most powerful outbreak of such enmity —stronger than the *écrasez l' infame* of the 18th century, which itself was certainly not to be underestimated, stronger than the hatred for the hatred for the French of Barons von Stein and Kleist, who said "Strike them [the French] dead; the Last Judgment does not ask you the reasons," stronger even than Lenin's annihilating condemnations of the bourgeoisie and Western capitalism—in Cromwell's fight against Papist Spain. In the speech of September 17, 1656[35] he says: "The first thing therefore, that I shall speak to, is *That*, that is the first lesson of Nature: Being and Preservation.... The conservation of that, namely our National Being, is first to be viewed with respect to those who seek to undo it, and so make it not to be. So let us consider our enemies, the Enemies to the very Being of this Nation" (he always repeats this very Being or National Being and then continues): "Why, truly, your great Enemy is the Spaniard. He is a natural enemy. He is naturally so; he is naturally so throughout—by reason of that enmity that is in him against whatsoever is of God. Whatsoever is of God which is in you, or which may be in you." Then he repeats: "The Spaniard is your enemy, his enmity is put into him by God; he is "the natural enemy, the providential enemy"; he who thinks he is an accidental enemy does not know the Scriptures and the things of God, who said, I will put enmity between your seed and their seed (Gen. III, 15); one can make peace with France, not with Spain, for it is a Papist state, and the pope keeps peace only as long as he wants."

But the reverse is also true: everywhere in political history, both in foreign policy and in domestic politics, the inability or unwillingness to make this distinction appears as a symptom of the political end. In Russia, the declining classes before the revolution romanticized the Russian peasant as a good, well-behaved, and Christian *Muzhik*. In a confused Europe, a relativist bourgeoisie sought to make all conceivable exotic cultures the object of its aesthetic consumption. Before the revolution of 1789, aristocratic society in France raved about the "naturally good man" and the touchingly virtuous people. Tocqueville

describes this situation in his depiction of the *Ancien Régime* (p. 228), in words whose underlying tension in his own work comes from a specifically political pathos: one did not sense anything of the revolution; it is strange to see the certainty and cluelessness with which these privileged people spoke of the goodness, mildness, and innocence of the people when 1793 was already upon them—”*spectacle ridicule et terrible*” (a ridiculous and terrible spectacle).

V III

The liberalism of the last century has changed and denatured all political ideas in a strange and systematic manner. As a historical reality, liberalism has escaped the political as little as any other significant human movement, and its neutralization and depoliticizations (of education, the economy, etc.) also have a political significance. Liberals of all countries have engaged in politics like other people and have in various ways formed coalitions with non-liberal elements and ideas, as national liberals, social liberals, free conservatives, liberal Catholics, etc.[36] In particular, they have joined forces with the completely non-liberal forces of democracy that are essentially political and even lead to the total state.[37] The question is, however, whether a specifically political idea can be derived from the pure and consistent concept of individualistic liberalism. This is to be denied, for the negation of the political, which is contained in every consistent individualism, indeed leads to a political practice of distrust of all conceivable political powers and forms of state, but never to a positive theory of state and politics in its own right. Consequently, there is a liberal policy as a polemical opposition to state, church, or other restrictions on individual freedom. There is a liberal trade policy, church policy, school policy, and cultural policy, but not a liberal policy *per se*, but always only a liberal critique of politics. The systematic theory of liberalism almost solely concerns the internal political struggle against state power and provides a series of methods to inhibit and control this state power for the protection of individual freedom and private property, to make the state a "compromise" and state institutions a pressure valve, and moreover, to "balance" a monarchy against democracy, and vice versa, which in critical times—especially in 1848—led to such a contradictory attitude that all good observers, such as Lorenz von Stein, Karl Marx, Fr. Julius Stahl, Donoso Cortés, despaired of finding a political principle or any intellectual consistency here.

In a highly systematic manner, liberal thought circumvents or ignores the state and politics and instead moves in a typical, recurring polarity of two heterogeneous spheres, namely ethics and economics, intellect

and business, education and property. The critical distrust of state and politics can easily be explained by the principles of a system for which the individual must remain *terminus a quo* and *terminus ad quem*. The political entity must, if necessary, demand the sacrifice of life. For the individualism of liberal thought, this demand is in no way attainable or justifiable. An individualism which gives to someone other than the individual himself the disposal over the physical life of that individual would be just as empty a phrase as a liberal freedom, in which someone other than the free man himself decides on its content and measure. For the individual as such there is no enemy with whom he would have to fight to the death if he personally did not want to; to force him to fight against his will is in any case, from the private individual's point of view, unfreedom and violence. All liberal pathos turns against violence and unfreedom. Every impairment, every threat to individual unlimited freedom, private property, and free competition is called "violence" and is *eo ipso* something evil. What this liberalism of state and politics still accepts is limited to securing the conditions of freedom and to eliminating disturbances of freedom.

This leads to a whole system of demilitarized and depoliticized concepts, some of which may be listed here to show the astonishingly consistent system of liberal thought which, despite all setbacks, still has not been replaced by any other system in Europe today. It must always be borne in mind that these liberal concepts typically range from between ethics (intellectuality) to economics (business), and that from these polar sides they seek to annihilate the political as a domain of "conquering force," with the concept of justice, i.e. the "private law" state serving as a lever, and the concept of private property forming the center of the globe, whose poles—ethics and economics—are only the opposing radiations from this center. Ethical pathos and materialistic-economic objectivity are combined in every typically liberal manifestation and change the face of every political concept. Thus the political concept of struggle becomes in liberal thought competition on the economic side, and intellectual debate on the other side; instead of a clear distinction between the two different statuses of war and peace, the dynamics of eternal competition and eternal discussion take over. The state becomes society, and on the one hand, on the ethical-intellectual

side, an ideological-humanitarian conception of “humanity”; on the other hand, the state becomes the economic-technical unit of a uniform production and commerce system. The will to repel the enemy, which is completely self-evident in a situation of conflict, becomes a rationally constructed social ideal or program, a tendency, or an economic calculation. The politically united people becomes, on the one hand, a culturally interested public, and on the other hand, partly an operating and working personnel, partly a mass of consumers. At the intellectual pole, domination and power become propaganda and mass suggestion, at the economic pole, control.

All of these dissolutions are almost certainly aimed at subjecting state and politics partly to individualistic and therefore private-law morality, partly to economic categories, and depriving them of their specific meaning. It is very curious with what self-evident logic liberalism outside the political not only recognizes the autonomy of the various domains of human life, but exaggerates it toward specialization and even to complete isolation. That art is a daughter of freedom, that aesthetic value judgement is necessarily autonomous, that artistic genius is sovereign, seems self-evident to liberalism; indeed, in some countries a true liberal pathos arose in the first place only when this autonomous freedom of art was threatened by moralistic “apostles of ethics.” Morality, in turn, became autonomous in relation to metaphysics and religion, science in relation to religion, art, and morals, etc. By far the most important case of an autonomous subject area, however, was the autonomy of the norms and laws of the economic sphere, which prevailed in unwavering security. That production and consumption, price formation and market have their own sphere and cannot be directed by ethics, aesthetics, religion, and least of all politics, was considered one of the few truly undebatable, unquestionable dogmas of this liberal age. All the more interesting that political aspects were robbed of any validity with particular pathos and subjected to the norms and orders of morality, law, and economics. Since, as I have said, in the concrete reality of political being no abstract orders and series of norms rule, but always only concrete men or associations over other concrete men and associations, so here too, of course, politically speaking, the

rule of morality, law, economy, and norms, always has only a concrete political meaning.

Schmitt's Note[38]

The ideological structure of the Treaty of Versailles corresponds exactly to this polarity of ethical pathos and economic calculation. In Article 231, the German Reich is forced to recognize its "responsibility" for all war damages and losses, thus creating the basis for a legal and moral value judgement. Political terms such as annexation are avoided; the cession of Alsace-Lorraine is a *désannexion*, i.e., reparation of an injustice; the cession of Polish and Danish territories serves the ideal demand of the nationality principle; the removal of the colonies is even proclaimed in Article 22 as a work of selfless humanity. The economic counterpart of this idealism is reparations, i.e. permanent and unlimited economic exploitation of the vanquished. The result: such a treaty could not even realize a political concept such as peace, so that new "true" peace treaties became necessary all the time: the London Protocol of August 1924 (Dawes Plan), Locarno of October 1925, entry into the League of Nations in September 1926—the series is not over yet.

From the outset, liberal thought reproached the state and politics for "force" or "violence." This would have been only one of the many impotent insults of political debate, if it had not been given a wider horizon and a stronger power of persuasion by the context of a great metaphysical construction and interpretation of history. The enlightened eighteenth century believed in a clear and simple line of increasing human progress. Progress was held to consist above all of intellectually and morally perfecting humanity. The line moved between two points: from fanaticism to intellectual freedom and maturity, from dogma to criticism, from superstition to enlightenment, from darkness to light.

Some very important tripartite constructions emerged in the in the first half of the following 19th century, however, especially Hegel's dialectical succession (e.g. natural community—civil society—state), and Comte's famous three-stage law (from theology via metaphysics to positive science). The tripartite structure, however, lacks the polemical clout of the bipartite antithesis. Therefore, as soon as the struggle resumed after the periods of calm, exhaustion, and attempts at restoration, the simple bipartite antithesis immediately prevailed again; even in Germany, where they were by no means meant to be warlike, dualities such as domination and cooperative (in O. Gierke's work) or community and society (in F. Tönnies') replaced Hegel's tripartite scheme in the second half of the 19th century.

The most striking and historically effective example is the antithesis of bourgeois and proletarian formulated by Karl Marx, which seeks to concentrate all the struggles of world history into a single, final struggle against the final enemy of humanity by uniting the many bourgeoisies of the world into a single one, the many proletariats also into a single one, and in this way achieving a vast friend-enemy grouping. Its persuasive power in the nineteenth century, however, lay above all in the fact that it had followed its liberal-bourgeois opponent into the realm of the economic, and had cornered it there, so to speak, on its own territory with its own weapons. This was necessary because the turn to the economic was decided with the victory of the industrial society. One may consider the year 1814 as the date of this victory, the year in which England triumphed over Napoleon's military imperialism. The simplest and most transparent theory of this development is H. Spencer's interpretation of history, which sees human history as a development from a military-feudal to an industrial-commercial society. The first, but already complete, documentary expression of this development was the treatise on *l' esprit de conquête* (the spirit of conquest), which Benjamin Constant, the inaugurator of the entire liberal spirit of the 19th century, published in 1814.

What is decisive here is the connection between the belief in progress, which was still mainly humanitarian-moral and intellectual, i.e. "spiritual" in the 18th century, and the economic-industrial-technical development of the 19th century. "The economy" felt itself to be the

bearer of this actually very complex development; economy, trade and industry, technical perfection, freedom, and rationalisation were regarded as allies, and yet, despite their offensive advance against feudalism, reaction, and the police state, they were regarded as essentially peaceful in contrast to warlike force. This is how the grouping characteristic of the 19th century emerged:

Freedom, progress, and reason}	against	{ feudalism, reaction, and force
in alliance with		in alliance with
economy, industry, technology}	against	{ state, war, and politics
as		as
parliamentary democracy	against	dictatorship

The complete inventory of these antitheses and their possible combinations can already be found in the aforementioned 1814 paper by Benjamin Constant. There he states that we are in an age that must necessarily replace the age of wars, as the age of wars necessarily had to precede this age. Then follows the characterization of the two eras: one seeks to win the goods of life by peaceful understanding (*obtenir de gré à grè*), the other by war and violence; the one is "*l' impulsion sauvage*" (the savage impulse), the other, in contrast, "*le calcul civilisé*" (civilized calculation). Since war and violent conquest are unable to provide the conveniences and comforts that trade and industry provide, wars are of no use, and the victorious war is a bad deal even for the victor. Moreover, the tremendous development of modern warfare technology (Constant refers especially to artillery, on which the technical superiority of the Napoleonic armies mainly relied) has rendered meaningless everything that was once heroic and glorious about war, personal courage, and the joy of fighting. Thus, Constant's conclusion is that war today has lost both its usefulness and its attraction: *l' homme n' est plus entrainé à s' y livrer, ni par intérêt, ni par passion* (man is no longer compelled to engage in it, neither out of interest, nor out of

passion). In the past, warlike peoples subjugated mercantile peoples; today it is the other way around.

In the meantime, the extraordinarily complex coalition of economy, freedom, technology, ethics, and parliamentarism has long since done away with its opponent, the remnants of the absolutist state and feudal aristocracy, and thus lost all sense of current meaning. Now new groupings and coalitions are taking their place. The economy is no longer *eo ipso* freedom; technology serves not only for comfort but also for the production of dangerous weapons and instruments; its progress does not *eo ipso* bring about the humanitarian and moral perfection that was thought of as progress in the 18th century, and technical rationalization can be the opposite of economic rationalization. Nevertheless, Europe's intellectual atmosphere remains to this day filled with this 19th century interpretation of history, and at least until recently its formulas and concepts retained an energy which seemed to survive beyond the death of the old adversary.

Franz Oppenheimer's theses from recent decades are the best example of this.[39] As his goal, Oppenheimer proclaims the "elimination of the state." His liberalism is so radical that he no longer even allows the state to be considered an armed office servant. The elimination is set in motion by means of proposing a definition laden with value judgement and emotion. The concept of the state is to be determined by political means, the concept of the (essentially apolitical) society by economic means. But the predicates by which the political and the economic means are then defined are nothing but characteristic paraphrases of that pathos against politics and state which ranges between ethics and economics, and unveiled polemical antitheses in which the polemical relationship between state and society, politics and economics, of 19th century Germany is reflected. The economic means is exchange; it is transactional reciprocity, hence mutuality, equality, justice, and peace, ultimately no less than "the cooperative spirit of harmony, fraternity and justice" itself; the political means, by contrast, is a conquering force outside of economics, robbery, conquest and crime of all kinds. A hierarchical value system of the relationship between state and society remains; but while the concept of state systematized by Hegel in the

19th century proposed the state as a realm of morality and objective reason, standing high above the "animal kingdom" of "egoistic" society, the value system is now reversed, and society, as a sphere of peaceful justice, stands infinitely higher than the state, which is debased to a realm of violent immorality. The roles have been reversed, the apotheosis has remained. But it is actually not permissible and neither morally, nor psychologically, and least of all scientifically valid, to simply define with moral disqualifications, by contrasting the good, the just, the peaceful—in a word, the sympathetic exchange, with the rude, the predatory, and with criminal politics. With such methods, one could just as easily define politics as the sphere of honest struggle, and the economy as a world of deceit, because after all, the connection of the political with robbery and force is no more inherent than the connection of the economic with cunning and deceit. Exchange and deception are often close together. A domination of people based on economic principles must appear to be a terrible fraud, especially when it remains apolitical by evading all political responsibility and visibility.

The concept of exchange does not in any way conceptually exclude the possibility that one of the adversaries will suffer a disadvantage and that a system of mutual contracts will eventually turn into a system of the worst exploitation and oppression. If the exploited and oppressed are able to defend themselves in such a situation, they obviously cannot do so by economic means. It is also self-evident that the holders of economic power will label any attempt from outside of the economic realm to change their position of power as repression and crime, and try to prevent it. Only this means that the ideal construction of an *eo ipso* peaceful and just society based on exchange and mutual contracts is no longer applicable. Unfortunately, usurers and blackmailers also invoke the sanctity of contracts and the phrase *pacta sunt servanda*; the realm of exchange has its narrow limits and its specific territory, and not all things have an exchange value. For political freedom, for example, and political independence, there is no fair equivalent, no matter how large the bribe.

One cannot eliminate state and politics using such definitions and constructions, which ultimately all revolve only around the polarity of ethics and economics, nor will one depoliticize the world. The fact that

economic contrasts have become political and that the concept of economic power has been able to emerge only shows that the economy can reach the point of becoming political, as can any subject area. It is under this impression that the oft-quoted phrase of Walther Rathenau's originated, that today destiny is not politics but economics.

It would be more accurate to say that politics is still destiny and that the only thing that has happened is that the economy has become a political issue and thus destiny also. It is therefore also mistaken to believe that a political position gained with the help of economic superiority is (as Josef Schumpeter said in his *Soziologie des Imperialismus* in 1919) "essentially unwarlike." Only the terminology is essentially unwarlike, and this from the essence of liberal ideology. An economically-based imperialism will naturally seek to bring about a state of the world in which it can freely use and get by with its economic means of power, such as denying credit, embargoing raw materials, the destruction of foreign currency, etc. It will regard it as "extra-economic force" whenever a people or another group seeks to escape the effects of these "peaceful" methods. It will also use more severe, but still "economic" and therefore (according to this terminology) apolitical, essentially peaceful means of coercion, such as those listed by the Geneva League of Nations, for example, in the guidelines for the implementation of Article 16 of the Covenant of the League of Nations:[40] Stopping the supply of food to the civilian population and sanctions to induce starvation. Lastly, it has at its disposal technical means of violent physical killing, technically perfect modern weapons which have been made so incredibly effective by an array of capital and intelligence that they can be used if necessary.

However, a new, essentially pacifist vocabulary is emerging for the use of such means, which no longer knows war, but only executions, sanctions, punitive expeditions, pacifications, protection of treaties, international police, and peacekeeping missions. The enemy is no longer called the enemy, but in return he is set up as a threat to peace, disturber of peace, *hors-la-loi*, and *hors l' humanité*, and a war waged to maintain or extend economic power must be turned into a "crusade" and the "last war of mankind" using an array of propaganda. This is what

the polarity of ethics and economics demands. In it, however, an astonishing systemization and consistency is evident, but even this allegedly apolitical and apparently even anti-political system either serves existing groupings of friends and enemies, or leads to new ones, and is unable to escape the logic of the political.

Epilogue to the 1932 Edition

The treatise on the concept of the political was first published in the Heidelberg *Archiv für Sozialwissenschaft und Sozialpolitik*, Vol. 58, Issue I (pp. 1-33) in August 1927, after I had used the same theses to deal with the same topic in a lecture organized by the German School of Politics in Berlin, May 1927.

What has been said here about the "concept of the political" is intended to theoretically frame an immense problem. The individual statements are intended as a starting point for a factual discussion and are intended to serve as a basis for academic discussions and exercises which may be allowed to contemplate such *a res dura*. The present edition contains a number of new formulations, remarks, and examples compared to the publications just mentioned, but no change to the line of thought itself. I shall wait and see what directions and points of view will emerge in the new discussion of the political problem, which has been lively for about a year now.

Carl Schmitt

Notes

[←1]

The contrast between law and politics is easily confused with the contrast between civil law and public law, e.g. Bluntschli, *Allgem. Staatsrecht I* (1868), p. 219: "Property is a private, not a political concept. The political significance of this contrast was particularly evident in the discussions on the expropriation of the property of the royal houses formerly ruling in Germany in 1925 and 1926; as an example, the following sentence from the speech of Abg. Dietrich (Reichstag session of 2 December 1925, Reports 4717) should be mentioned: "We are in fact of the opinion that these are not civil law issues at all, but merely political issues."

[←2]

In the definitions of the political which use the concept of "power" as a decisive characteristic, this power usually appears as state power, e.g. Max Weber: "striving for a share of power or influencing the distribution of power, be it between states, within the state between the groups of people it encompasses; or: "directing and influencing a political association, hence today a state" (*Politik als Beruf*, 2nd ed. 1926, p. 7); or (*Parlament und Regierung im neugeordneten Deutschland,* 1918, p. 51): "The essence of politics is, as will often be emphasised, combat, recruiting of allies and of voluntary followers." H. Triepel (*Staatsrecht und Politik,* 1927, p. 16) says: "Until a few decades ago, politics was still understood simply as the doctrine of the state... Waitz, for example, describes politics as the scholarly discussion of the conditions of the state with regard to both the historical development of states in general and the state conditions and needs of the present. Triepel then criticises, with good and reasonable reasons, the allegedly apolitical, "purely" jurisprudential approach of the Gerber-Laband School and the attempt to continue it in the post-war period (Kelsen). But Triepel has not yet recognised the purely political meaning of this pretension of "apolitical purity," because he sticks to the equation political = state. In truth, as will be shown below, a typical and particularly intense way of coducting politics is to portray the opponent as political, and oneself as apolitical (i.e. here: scholarly, just, objective, impartial, etc.).

[←3]

According to § 3 (1) of the German *Reichsvereinsgesetz* of 19 April 1908, a political association is "any association whose purpose is to influence political affairs." In practice, political affairs are then usually referred to as matters relating to the maintenance or alteration of state organisation or to influencing the functions of the state or the public bodies incorporated into it. In such and similar paraphrases, political, state, and public affairs merge. Until 1906 (judgment of the Court of Appeal of 12 February 1906, Johow Volume 31 C. 32- 34), the practice in Prussia under the Decree of 13 March 1850 (GesS., p. 277) also covered all activities of church and religious associations without corporate status, even religious edification hours as an influence on public affairs or discussion of such matters; on the development of this practice, see H. Geffcken, "*Öffentliche Angelegenheit, politischer Gegenstand und politischer Verein nach preußischem Recht*," Festschrift for E. Friedberg, 1908, p. 287 ff. The judicial recognition of the non-state nature of religious, cultural, social, and other issues is a very important, even decisive indication that certain subject areas are removed from the state and its rule as spheres of influence and interest of certain groups and organisations. In 19th century terminology this means that "society" confronts the "state" independently. If then the theory of the state, the jurisprudence, the prevailing idiom, holds that political = state, then the (logically impossible, but practically apparently inevitable) conclusion arises that everything non-state, i.e. everything "social," is consequently apolitical! This is partly a naive error, which contains a whole series of particularly vivid illustrations of V. Pareto's doctrine of residuals and derivatives (*Traité de Sociologie générale*, French editions 1917 and 1919, I, pp. 450 f., II, pp. 785 f.); but partly, in hardly distinguishable connection with that error, it is a practically very useful, highly effective tactical tool in the internal political struggle with the existing state and its kind of order.

[←4]

Jèze, *Les principes généraux du droit administratif,* I, 3rd ed. 1925, p. 392, for whom the whole distinction is only a matter of "*opportunité politique*." Also: R. Alibert, *Le contrôle juridictionnel de l'administration,* Paris 1926, p. 70 ff. Further literature available from Smend, "*Die politische Gewalt im Verfassungsstaat und das Problem der Staatsform*," Festschrift für Kahl, Tübingen 1923, p. 16; also *Verfassung und Verfassungsrecht* pp. 103, 133, 154 and the report in the publications of the *Institut International de Droit Public*, 1930; there also the reports by R. Laun and P. Duez. From the Duez report (p. 11), I take a definition of the specifically political *acte de gouvernement* which is particularly interesting for the criterion of the political (friend-enemy orientation) established here, which Dufour ("*à l'époque le grand constructeur de la théorie des actes de gouvernment"*), Traité de Droit administratif appliqué, t. V, p. 128 "*ce qui fait l'acte de gouvernement, c'est le but que se propose l'auteur. L'acte qui a pour but la défense de la prise société en elle-même ou personnifiée dans le gouvernement, contre ses ennemis intérieurs ou extérieurs, avoués ou cachés, présents ou à venir, voilà l'acte de gouvernement."* The distinction between "*actes de gouvernement*" and "*actes de simple administration"* took on a further meaning when the parliamentary responsibility of the President of the Republic was discussed in the French National Assembly in June 1851 and the President wanted to assume actual political responsibility himself, i.e. responsibility for government acts, cf. Esmein Nézard, *Droit constitutionnel*, 7th ed. Similar distinctions were made in the discussion of the powers of a "Ministry of Commerce" under Article 59(2) of the Prussian Constitution on the question of whether the Ministry of Commerce could only deal with "day-to-day" business in the sense of political affairs; see Stier Somlo, Archöff R. Vol. 9 (1925), p. 233; L. Waldecker, *Kommentar zur Preuß. Verfassung*, 2nd ed. 1928, p. 167, and the decision of the State Court for the German Reich of 21 November 1925 (RGZ. 112, Annex p. 5). Here, however, the distinction between current (non-political) and other (political) affairs is finally abandoned. A. Schäffles' essay "*Über den wissenschaftlichen Begriff der Politik*," Zeitschr. f. d. Ges. Staatswissenschaft Vol. 53 (1897) is based on the juxtaposition of current affairs (= administration) and politics; Karl Mannheim, *Ideologie und Utopie*, Bonn 1929, pp. 71 f. has adopted this juxtaposition as an "orienting starting point." Similarly, distinctions such as "the law (or justice) is politics in the making," the law (or justice) in the making, one is static, the other dynamic, etc.

[←5]

(see Carl Schmitt, The Guardian of the Constitution, Tübingen 1931 p. 78-79)

[←6]
(Kroner's edition, pp.133, 135,197).

[←7]
(in his *Studien zum deutschen Staatsrecht II*, 1888, p. 219 and *Deutsches Staatsrecht I*, 1892, p. 110)

[←8]
(*Verfassung und Verfassungsrecht* 1928, p. 97, note 2)

[←9]

In Plato, *The Republic*, Book V, Cap. XVI, 470, the contrast of *πολέμιος* and *ἐχθρός* is very strongly emphasised, but connected with the other contrast of *polemos (war) and *στάσις* (revolt, uprising, rebellion, civil war). For Plato, only a war between Hellenes and barbarians (who are "enemies by nature") is really war, whereas for him the conflicts between Hellenes are *στάσις* ("discord.") The thought here is that a people cannot wage war against itself and that a "civil war" means only self-destruction, but not perhaps the formation of a new state or even people. For the term *hostis* the digest passage 50, 16, 118 of Pomponius is usually quoted. The clearest definition is found in Forcellini's *Lexicon totius Latinitatis* III, 320 and 511: *Hostis is est cum quo publice bellum habemus ... in quo ab inimico differs, qui est is, quocum habemus privata odia. Distingui etiam sic possunt, ut inimicus sit qui nos odit; hostis qui oppugnat.*

[←10]

Thus, “social policy” has only existed since a politically significant class raised its social demands; the welfare services that were once given to the poor and miserable were not perceived as a social policy problem and were not called that. Similarly, church politics existed only where a church was present as a politically significant force.

[←11]

Machiavelli, for example, refers to all states as republics which are not monarchies; he has thus determined the definition to this day. Richard Thoma defines democracy as a non-privileged state, declaring all non-democracies as privileged states.

[←12]

Here too, there are many possible types and degrees of polemical character, but the essentially polemical nature of the term "political" and its concept formation is always recognisable. Terminological questions become highly political matters; a word or expression can be at once a reflex, a signal, a shibboleth, and a weapon of hostile confrontation. A Socialist of the Second International, Karl Renner, for example, (in a scientifically important study by the "*Rechtsinstitute des Privatrechts*," Tübingen 1929, p. 97) calls the rent which the tenant has to pay the house owner a "tribute." Most German legal scholars, judges, and lawyers would reject such a designation as an inadmissible "politicisation" of private-law relations and as a disturbance of the "purely juristic, purely legal, purely scientific" discussion, because for them the question is decided in a legally positivist manner, and the political decision of the state inherent therein is recognised by them. Conversely, many Socialists of the Second International attach importance to the fact that the payments which armed France forced disarmed Germany to make are not called "tributes" but only "reparations." Reparations seem to be more juristic, legal, peaceful, non-polemical, and apolitical than tributes. Upon closer inspection, however, reparations are even more intensely polemical and therefore also political, because this word uses a legal and even moral value judgement politically, to subject the defeated enemy to legal and moral disqualification at the same time through the forced payments. Today, the question of whether to say tribute or reparations has become the subject of domestic antagonism in Germany. In earlier centuries there was a somewhat reversed controversy between the German Kaiser (King of Hungary) and the Turkish Sultan over whether what the Kaiser had to pay the Turk was "pension" or tribute. Here the debtor attached importance to the fact that he did not pay tribute but "pension," whereas the creditor, on the other hand, insisted that it was tribute. At that time, at least in relations between Christians and Turks, words seemed to be more open and objective, and legal terms had perhaps not yet become instruments of political coercion to the same extent as they have today. But Bodinus, who mentions this controversy, adds (*Les six livres de la République,* 2nd edition 1580, p. 784): "usually even the "pension" is only paid to protect oneself not from other enemies but above all from the protector himself and to ransom oneself out of an invasion (*pour se racheter de l' invasion*).

[←13]

Rudolf Stammler's Neo-Kantian thesis that the "community created by free will" is the social ideal was contrasted by Erich Kaufmann (*Das Wesen des Völkerrechts und die clausula rebus sic stantibus*, 1911, p. 146) with the statement: It is not the community created by free will, but the victorious war that is the social ideal: the victorious war is the final means to that ultimate goal" (participation of the state and self-assertion in world history). This statement adopts the typical neo-Kantian liberal idea of a "social ideal," for which wars, even victorious wars, are something quite incommensurate and incompatible, and joins with the idea of the "victorious war," which is at home in the world of Hegelian-Rankian historical philosophy, in which there are no ""ocial ideals." Thus the contrast, which is striking at first sight, breaks apart into two disparate parts, and even the rhetorical insistence on a striking contrast cannot conceal the structural incoherence or heal the mental break.

[←14]

Clausewitz (*Vom Kriege* III. Berlin 1834, p. 140) says: “War is nothing but a continuation of political intercourse with a mixture of other means.” For him, war is a “mere instrument of politics.” That may be, but its importance for the recognition of the nature of politics is not yet exhausted. In Clausewitz’s view, war is not just one of many instruments, but the *ultima ratio* of friends and enemies. War has its own “grammar” (i.e. special military laws), but politics remains its “brain”; it has no logic of its own. This logic can only be derived from the concepts of friend and enemy, and this core of all politics is revealed in the sentence p. 141: “If war pertains to politics, it will take on its character. As soon as politics becomes greater and more powerful, so will war, and this can rise to the height where war assumes its absolute form.” Numerous other sentences also prove how much each specifically political consideration is based on those political categories, especially, for example, the remarks on coalition wars and alliances, op. cit., p. 135 ff. and in H. Rothfels, Carl von Clausewitz, *Politik und Krieg*, Berlin 1920, p. 198, 202.

[←15]

»*Cette chose énorme... la mort de cet être fantastique, prodigieux, qui a tenu dans l' histoire une place si colossale: l' Etat est mort*« E. Berth, whose ideas come from Georges Sorel, in *Le Mouvement socialiste*, October 1907, p. 314. Léon Duguit quotes this passage in his lectures *Le droit social, le droit individuel, et la transformation de l' Etat*, 1st ed. 1908; he was content to say that the sovereign state, conceived as a person, was dead or dying (p. 150: *L' Etat personnel et souverain est mort ou sur le point de mourir*). In Duguit's work *L' Etat*, Paris 1901, such statements are not yet found, although the criticism of the concept of sovereignty is already the same. Interesting further examples of this syndicalist diagnosis of the contemporary state in *Esmein*, *Droit constitutionnel* (7th edition by Nézard) 1921, I, p. 55 ff, and especially in the particularly interesting book by Maxime Leroy, *Les transformations de la puissance publique* 1907. The syndicalist doctrine can also be distinguished from the Marxist construction in its diagnosis of the state. For the Marxists, the state is not dead or dying, but rather is necessary and for the time being still real as a means of bringing about a society which is classless and thus stateless; it is precisely with the help of Marxist doctrine that the state received new energy and new life in the Soviet Union.

[←16]

A clear and plausible compilation of Cole's theses is printed (formulated by himself) in the Proceedings of the Aristotelian Society, vol. XVI (1916), pp. 310-325; the central thesis here is also that states are similar in nature to other types of human associations. Of Laski's writings, the following are worth mentioning: *Studies in the Problem of Sovereignty* 1917; *Authority in the Modern State* 1919; *Foundations of Sovereignty* 1921, *A Grammar of Politics* 1925, "*Das Recht und der Staat,*" *Zeitschr. für öffentl. Recht*, vol. X (1930), pp. 1-25. Further literature from Kung Chuan Hsiao, *Political Pluralism,* London 1927; on the criticism of this pluralism: W. Y. Elliott in *The American Political Science Review* XVIII (1924), pp. 251 f., and *The pragmatic Revolt in Politics,* New York 1928; Carl Schmitt, "*Staatsethik und pluralistischer Staat*," *Kant-Studien* XXXV (1930), pp. 28-42. On the pluralistic fragmentation of today's German state and the development of parliament as the scene of a pluralistic system: Carl Schmitt, *Der Hüter der Verfassung*, Tübingen 1931, pp. 73 f.

[←17]

Figgis, *Churches in the modern State,* London 1913, who incidentally reports on p. 249 that Maitland, whose legal history studies also influenced the pluralists, said of Gierke's *Das Deutsche Genossenschaftsrecht* (cf. above) that it was the greatest book he had ever read, and that the medieval dispute between church and state, i.e. pope and emperor, or more precisely the clergy and the secular classes, was not a battle between two "societies," but a civil war within the same social entity; today, however, it is two societies, *duo populi*, who are facing each other. I think that is true. for whereas in the period before the schism the relationship between the Pope and the Emperor could be reduced to the formula that the Pope had the *auctoritas* and the Emperor had the *potestas* and there was therefore a distribution within the same entity, Catholic doctrine since the twelfth century has held that the Pope and the Emperor are not in conflict with each other. On the church side, of course, only one church is recognised as *societas perfectae*, whereas on the state side, a plurality (if not a myriad) of *societates perfectae* appear today, but their "perfection" is very problematic because of their large number. Paul Simon gives an extremely clear summary of Catholic doctrine in the essay "*Staat und Kirche*" (*Deutsches Volkstum*, Hamburg, Augustheft 1931, pp. 576-596). The coordination of churches and trade unions typical of Anglo-Saxon pluralist doctrine is of course unthinkable in Catholic theory; nor could the Catholic Church be treated as having the same nature as an international trade union. In fact, as Elliot aptly points out, the church serves Laski only as a "stalking horse" for the trade unions. Moreover, there is unfortunately a lack of a clear and thorough discussion of the mutual theories and their mutual relations, both on the Catholic side and among those pluralists.

[←18]

Since Laski also refers to the controversy of the English Catholics with Gladstone, the following statements of the later Cardinal Newman from his letter to the Duke of Norfolk (1874, regarding Gladstone's writing *The Vatican Decrees in Their Bearing on Civil Allegiance*) should be quoted here: "Suppose England were to send her Ironclads to support Italy against the Pope and his allies, English Catholics would be very indignant, they would take part with the Pope before the war began, they would use all constitutional means to hinder it; but who believes that, when they were once in the war, their action would be anything else than prayers and exertions for a termination of it? What reason is there for saying that they would commit themselves to any step of a treasonable nature...?" (*A Letter Addressed to His Grace the Duke of Norfolk,* New York: The Catholic Publication Society, 1875, p.64.)

[←19]

"We can say that on the day of mobilisation the previously existing society was transformed into a community," E. Lederer, Archiv f. Soz.-Wiss. 39 (1915), p. 349.

[←20]

further examples and literature in Busolt-Swoboda, *Griechische Staatskunde*, 3rd ed. 1920, p. 231, 532; on the annual declaration of war by the Spartan Ephors to the Helots living within the state, ibid. p. 670; on the *hostis* declaration in Roman constitutional law: Mommsen, *Rom. Staatsrecht* III, 5. 1240 f.; on the proscriptions ibid. and II, p. 735 f.; on "peacelessness," Exile and Excommunication, in addition to the well-known textbooks of German legal history, especially Ed. Eichmann, *Acht und Bann im Reichsrecht des Mittelalters,* 1909.

[←21]

H. J. Elias, “L’église et l’état,” Revue belge de philologie et d’histoire, V (1927), Issue 2/3.

[←22]

The passage by Lorenz von Stein cited above can be found in his account of the political-social development of the Restoration and the July Monarchy in France, *Geschichte der sozialen Bewegung in Frankreich* , Vol. I: *Der Begriff der Gesellschaft*, edition by G. Salomon, p. 494.

[←23]

De jure belli ac pacis, 1. I, c. I, N. 2: »*Justitiam in definitione (sc. belli) non includo.*« In medieval scholasticism, war against the infidels was considered a *bellum justum* (i.e. a war, not an "execution," "peaceful measure" or "sanction").

[←24]

The official German translation (*Reichsgesetzblatt* 1929, II, p. 97) says "condemn war as a means of resolving international disputes." The text of the Kellogg Pact of 27 August 1929 is written with the most important reservations – England's national honour, self-defence, the League of Nations, Locarno, the welfare and integrity of areas such as Egypt, Palestine, etc; For France: Self-defence, the League of Nations, Locarno and neutrality treaties, especially compliance with the Kellogg Pact itself; For Poland: Self-defence, compliance with the Kellogg Pact itself, the League of Nations – printed in the source booklet: "*Der Völkerbund und das politische Problem der Friedenssicherung,*" *Teubners Quellensammlung für den Geschichtsunterricht,* IV 13, Leipzig 1930. The general legal problem of reservations has not yet been dealt with systematically, not even where the sanctity of the treaties and the sentence *pacta sunt servanda* have been discussed in detail. An extremely noteworthy beginning for the lack of academic treatment so far, however, can be found in Carl Bilfinger, "*Betrachtungen über politisches Recht,*" *Zeitschrift für ausländisches öffentliches Recht,* Vol. I, pp. 57 f., On the general problem of a pacified humanity, cf. the explanations under VI; on the fact that the Kellogg Pact does not prohibit war but sanctions it, cf. Borchardt, "*The Kellogg Treaties Sanction War*," *Zeitschr. f. ausl. öffentl. Recht* 1929, pp. 126 f., and Arthur Wegner, *Einführung in die Rechtswissenschaft* II (Göschen No. 1048), pp. 109 f.

[←25]

Then it is up to the political community to regulate this kind of non-public, politically disinterested special existence in some way (through privileges for foreigners, organised segregation, extraterritoriality, residence permits and concessions, metic legislation, or otherwise). On the striving for a risk-free, apolitical existence (definition of the bourgeoisie) see Hegel's statement below, under VII.

[←26]

Pufendorff (*de Jure Naturae et Gentium,* VIII c. VI § 5) quotes with approval Bacon's statement that certain peoples are "proscribed by nature itself," e.g. the Indians because they eat human flesh. The Indians of North America have indeed been exterminated. With advancing civilisation and rising morality, perhaps even more harmless things than eating human flesh are enough to be ostracised in such a way; perhaps one day it will even be enough that a people will not be able to pay its debts.

[←27]
Die Kernfrage des Völkerbundes, Berlin 1926.

[←28]
Schriften II, 1914, p. 31

[←29]
cf. the note on Hegel below

[←30]

Political Theology, 2020, Antelope Hill Publishing; *Die Diktatur* 1921, S. 9, 109, 112 ff., 123,148.

[←31]

Cf. *Die Diktatur*, op. cit. p. 114 The formulation of the *Tribun du peuple* of Babeuf: *Toute institution qui ne suppose pas le peuple bon et le magistrat corruptible...* (is reprehensible) is not meant liberally but in the sense of the democratic identity of those in power and those governed.

[←32]

Wissenschaftliche Behandlungsarten des Naturrechts, 1802, edition of Lasson, p. 383, Glockner I, p. 499.

[←33]

The liberal Bluntschli, *Lehre vom modernen Staat*, III. Teil, *Politik als Wissenschaft*, Stuttgart 1876, p. 559, argues against Stahl's doctrine of parties that jurisprudence (which, incidentally, this party doctrine does not deal with at all) is not based on the evilness of human beings, but on the "golden rule of jurisprudence: *Quivis praesumitur bonus*," while Stahl, in the manner of a theologian, places the sinfulness of human beings at the top of his line of thought. For Bluntschli, jurisprudence is naturally civil law (cf. note 1 above). The golden rule of jurisprudence has its meaning in a regulation of the burden of proof; moreover, it presupposes that a state exists which, through a peaceful order secured against danger, has established the "external conditions of morality" and created a normal situation within which man can be "good."

[←34]

To the extent that theology becomes moral theology, this aspect of freedom of choice comes to the fore and causes the teaching of the radical sinfulness of man to pale into insignificance. "*Homines liberos esse et eligendi facultate praeditos; nec proinde quosdam natura bonos, quosdam natura malos*," Irenaeus, *Contra haercses* (L. IV, c. 37, Migne VII p. 1099).

[←35]
(in Carlyle Issue III, 1902, pp. 267 f.),

[←36]

The combinations could easily be multiplied. German Romanticism from 1800 to 1830 is a traditional and feudal liberalism, i.e., sociologically speaking, a modern bourgeois movement in which the bourgeoisie was not yet strong enough to eliminate the political power of feudal tradition that existed at the time, and therefore sought to enter into an analogous relationship with it, as it did later with the essentially democratic nationalism and socialism. No political theory can be derived from consistent bourgeois liberalism. This is the final reason why romanticism cannot have a political theory, but always adapts itself to the prevailing political energies. Historians who, like G. von Below, always want to see only a conservative romanticism must ignore the clearest connections. The three great literary heralds of a typically liberal parliamentarism are three typical Romantics: Burke, Chateaubriand and Benjamin Constant.

[←37]

On the contrast between liberalism and democracy: Carl Schmitt, *Die geistesgeschichtliche Lage des heutigen Parlamentarismus*, 2nd ed., 1926, 13 ff.; in addition, the essay by F. Tönnies, "*Demokratie und Parlamentarismus*," *Schmollers Jahrbuch,* vol. 51, 1927 (April), pp. 173 ff, which also recognises the sharp distinction between liberalism and democracy; cf. also the very interesting essay by H. Hefele, in the journal *Hochland*, November 1924. On the connection between democracy and the total state see above.

[←38]

Unchanged from the 1927 edition, Schmitt wrote this note within the text of Chapter VIII

[←39]

See the compilation by F. Sander, "*Gesellschaft und Staat, Studie zur Gesellschaftslehre von Franz Oppenheimer,*" Arch. f. Soz.-Wiss. 56 (1926), p. 384.

[←40]

Paragraph 14 of the resolution of the 2nd Assembly of the League of Nations in 1921.